

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

.
BARBARA E. VARNER, .
Plaintiff, . CIVIL ACTION
 . NO. 1:CV 01-0725
vs. .
 .
COMMONWEALTH OF PENNSYLVANIA, . (JUDGE YVETTE KANE)
NINTH JUDICIAL DISTRICT, .
CUMBERLAND COUNTY; CUMBERLAND .
COUNTY; S. GARETH GRAHAM, .
Individually, and JOSEPH .
OSENKARSKI, individually, .
Defendants. .
.

VOLUME 2
Pages 229 to 424

Deposition of: BARBARA E. VARNER

Taken by : Defendant Cumberland County

Date : January 28, 2003, 9:27 a.m.

Before : Emily Clark, RMR, Reporter-Notary

Place : Administrative Offices of
Pennsylvania Courts
5035 Ritter Road, Suite 700
Mechanicsburg, Pennsylvania

APPEARANCES:

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For - Plaintiff

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS
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Ninth Judicial District, Cumberland County

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4 For - Defendant S. Gareth Graham

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6 BY: PAUL LANCASTER ADAMS, ESQUIRE
7 For - Defendant Joseph L. Osenkowski

8 ALSO PRESENT:

9 MR. S. GARETH GRAHAM

10 MR. JOSEPH L. OSENKARSKI

11 MS. MELANIE McDONOUGH

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1 I N D E X

2 WITNESS

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1 BARBARA E. VARNER, recalled as a witness,
2 previously sworn, testified further, as follows:

3 BY MR. ADAMS:

4 Q Good morning, Ms. Varner.

5 A. Good morning.

6 Q My name is Paul Lancaster Adams and I represent Joe
7 Osenkowski in this case. I can tell you that I'm going
8 to be very short, especially, in comparison to
9 yesterday's examination of you. That's probably why I'm
10 going first.

11 I do want you to please keep in mind the
12 instructions given to you yesterday by Jim Thomas. Do
13 you remember those instructions in terms of how the
14 deposition is conducted from yesterday morning?

15 A. Yes, I do.

16 Q Okay. One thing I do want to add, that as explained to
17 me this morning, that as part of the instructions today,
18 and I ask that you also consider them as yesterday, that
19 if I ask you a question, you understand I'm going to
20 assume that you understood my question and that you're
21 answering correctly. Is that okay?

22 A. (Witness nodded head affirmatively.)

23 Q At least to the best of your knowledge?

24 A. (Witness nodded head affirmatively.)

25 Q Also, you have to say something verbal so she can get it

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1 typed down.

2 A. Yes. I'm sorry.

3 Q There were some questions asked by Jim Thomas yesterday
4 that I'm going to remind you of today just to have you
5 either elaborate on them or explain more fully. Is that
6 okay?

7 A. That's right. That's fine.

8 Q I'd like to start off with some of those questions.
9 Yesterday you testified that for the first year and a
10 half with the probationary department, the Probation
11 Department, excuse me, Joe Osenkarski was very
12 complimentary of your work. Do you remember saying
13 that?

14 A. He didn't appear to find any problems with my work.

15 Q Okay. And can you explain what you mean by
16 complimentary of your work?

17 A. My first evaluation I received from Joe I had worked
18 with the grant for Family Preservation, he had told me
19 during my first evaluation he was pleased with how that
20 program was going. It was a one-year grant at that
21 time, and he was pleased with my work.

22 If I turned in a file to Joe, I really had no
23 problems with that. Joe was fair. When I first started
24 Probation I was very pleased with Joe. His criticism
25 was not even -- he really was not a critical type

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1 person. He would make adjustments, corrections, in a
2 very appropriate way. No, I had no problems with Joe
3 when I would turn cases over to him, just to approve,
4 that kind of thing.

5 Q Okay. Did that understanding of Joe's complimentary,
6 complimenting of your work, last your entire stay with
7 the Probation Department, including up to current
8 status?

9 A. My evaluations from Joe have always been okay, they've
10 been fine. Joe as the chief, he's not the one doing my
11 major evaluations now, he's part of it. But my
12 evaluations, the last one I had was done by Hank
13 Thielemann and Tom Boyer, and then Joe signed as well,
14 as chief.

15 Q When did Mr. Osenkowski stop doing your evaluations?

16 A. Mr. Osenkowski has always been part of my evaluations
17 because he is the chief, so he still has to sign off on
18 them. And I'm sure he's told, you know, informed of
19 what my evaluation is. So he's still involved.

20 Q Okay. I want to take you back a little bit a ways
21 before you joined the probationary department. Is that
22 okay?

23 A. Okay.

24 Q I keep saying probationary. Probation Department.

25 When you found out about the job vacancy there, and

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1 you testified yesterday that prior to working there you
2 actually sought out Mr. Osenkowski and you wanted to
3 discuss your interest in the job vacancy with
4 Mr. Osenkowski. Do you remember that time period?

5 A. I remember discussing with him about the position, yes.

6 Q Okay. Why did you choose to go Mr. Osenkowski about
7 your job interest?

8 MS. WALLET: I'm sorry, I missed that. Was it why
9 or when?

10 MR. ADAMS: Why.

11 THE WITNESS: Because Mr. Osenkowski was head of
12 the juvenile division in Probation. We were combined
13 but still he was part of that division. The Family
14 Preservation program would be under the juvenile
15 program.

16 BY MR. ADAMS:

17 Q Okay. Your understanding at that time was still that
18 Judge Sheely was in charge of Probation, of the
19 Probationary Department; is that correct?

20 A. I don't even -- I'm not sure if I was even aware of the
21 whole hierarchy at that time. I knew it would be
22 Probation. Who exactly they answer to, probably, but I
23 can't say for sure that I knew that, that specifically.

24 Q When you talked to Mr. Osenkowski were you comfortable?

25 A. Yes, I was.

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- 1 Q Okay. Was he helpful?
- 2 A. Yes, he was.
- 3 Q Okay. Was he informative?
- 4 A. Yes, he was.
- 5 Q Okay. Do you believe that he had any influence at all
- 6 in your receiving the job ultimately with the Probation
- 7 Department?
- 8 A. I believe he did, because he was one of the three
- 9 gentlemen who interviewed me for my interview, my
- 10 original interview with them.
- 11 Q Okay. In that line, can you explain that process when
- 12 you, in fact, did interview for the Probation
- 13 Department?
- 14 A. I sat down with Mr. Osenkarski, John Roller, who was
- 15 with the adult section, and Ken Bolze who was the chief,
- 16 and they interviewed me just about how I felt about -- I
- 17 remember one time they asked about dealing with violent
- 18 offenders, how I felt about that, sort of my philosophy
- 19 in coming to the program, what I saw with Family
- 20 Preservation, and my, of course, my background, what my
- 21 schooling was in. I had to provide a resume.
- 22 Q Okay. And that's all the interview process that you
- 23 went through at the time?
- 24 A. That I went through? Yes. Yes.
- 25 Q Okay. Did Mr. Osenkarski by chance recommend you for

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1 your current position of senior probation officer?

2 A. It would have had to be him. He was the chief.

3 Q Okay. Could anyone else have made that decision for you
4 or on behalf of you?

5 A. Joe would have the ultimate say in recommending that.

6 Q Okay. Did Gary Graham by chance, I guess, was Gary
7 still involved with your supervision around this time?

8 A. No, he was not.

9 Q This was after that?

10 A. Right, it was after that.

11 Q Okay, thank you.

12 By chance, did Mr. Osenkowski also have any
13 influence in recommending a job for your son? I think
14 at the Stafford Detention Center, is that the place?

15 A. Schaffner Detention Center.

16 Q Schaffner? Okay. Did Mr. Osenkowski help in that or
17 assist in that in any way?

18 A. Not that I'm aware of.

19 Q Did he discuss with you the opportunity for your son to
20 be employed with that particular detention center?

21 A. I don't believe Mr. Osenkowski mentioned it. I know his
22 daughter had, when she had started working there, I know
23 she had gotten a job later at the same place, but I
24 can't remember whether he discussed it prior to or after
25 my son getting the job, I don't remember that.

1 Q You testified yesterday that you had heard that, this is
2 prior to being an employee with the Probation
3 Department, that Gary Graham and Mr. Osenkowski would
4 punish people when they were crossed. Do you recall
5 that?

6 A. That's right. Yes.

7 Q After suspecting this or hearing this, you still felt
8 comfortable talking to Mr. Osenkowski about the job
9 vacancy?

10 A. To me, it -- perhaps it was more rumor. Personally,
11 Mr. Osenkowski had always been polite to me. I had no
12 problem with that.

13 I liked the philosophy when I spoke to him about
14 the hands-off supervision, that you were allowed to
15 manage your case and do your own thing. And like I said
16 yesterday, it wasn't micromanaged like I was in Children
17 and Youth. And it was my field.

18 Q Sure. And that was an attractive feature for you in
19 this particular job?

20 A. Absolutely.

21 Q Okay. Would you agree that there are different
22 managerial styles in running an office --

23 A. Certainly.

24 Q -- generally speaking? And in the case with
25 Mr. Osenkowski, he had a hands-off approach to

1 managerial style?

2 A. I think Mr. Osenkowski was more delegating it to other
3 people. Mr. Osenkowski has been -- it was apparent to
4 most people that he was not in the office hardly at all.
5 If I really would have had a complaint, it was very
6 difficult to catch up to Mr. Osenkowski. And that's
7 still a pattern now, that just not available. More an
8 omission, allowing somebody else to do the work for him.

9 Q Are you aware of what Mr. Osenkowski is doing when he's
10 out of the office?

11 A. No, I'm not aware of that.

12 Q Could he be doing Department like jobs, do you think,
13 that may require him to be at meetings or seeking grants
14 or things of the like that are not innate with the
15 office operations as you see it?

16 A. Possibility. But I know I've heard that the secretaries
17 when they want to reach him, like, the middle of the day
18 they'll call his house, that he's home in the middle of
19 the day, those kind of things. That's an ongoing issue.

20 Q Are you aware that Mr. Osenkowski works from home at
21 times?

22 A. That's not something I would know about.

23 Q On October 21st, 2002, a few months ago, you actually
24 had a conversation with Mr. Osenkowski in the hall. Do
25 you remember that?

1 A. Yes, I do.

2 Q And that was at the courthouse annex?

3 A. Yes, it was.

4 Q And by chance that's across from the Sheriff's Office;

5 is that correct?

6 A. Yes, in that area.

7 Q And you actually stopped him in the hall; is that

8 correct?

9 A. Yes, I did.

10 Q Okay. And is it true that you said to him that you

11 realize you shouldn't be talking to him but you wanted

12 to speak with him briefly?

13 A. Um-hum. Yes, I did.

14 Q And in fact, you did?

15 A. Yes, I did.

16 Q And is it true that you expressed to him at the time

17 that you didn't want to leave your job?

18 A. Yes.

19 Q Okay. And that you really thought that most of the

20 actions centered around this case related to Gary Graham

21 and not him?

22 A. What I said to him is I just wished this whole thing was

23 over. I can see, I mean, I see Joe when I see him in

24 office, like I said, it's neutral right now, it's one of

25 those things I want it over. I've wanted this over from

1 the very beginning. I just wanted everything to stop.
2 It just continues, just on and on. And I just said, I
3 just want you to know I'd rather this was over, I wish
4 it was over, and I don't think the issue is so much --
5 it's -- it's just an issue that things have got to be
6 finalized. I just want to continue my job. I want to
7 do the job that I was hired to do and just left to do it
8 but I didn't feel like I should have to leave my job.

9 Q Okay. Did you say to Mr. Osenkowski at that time that
10 you didn't believe that any of this, meaning surrounding
11 this case, was any of his doing?

12 A. No, I did not say that.

13 Q What do you believe? Do you believe that Mr. Osenkowski
14 is a part of this suit by you?

15 A. Absolutely. I think by omission, by allowing Mr. Graham
16 to have full reign, giving him the power and just
17 backing away, when he saw and he would hear Mr. Graham
18 yelling and screaming at me. But he would just back
19 away and say my hands are washed of it, he's in charge.
20 That's not the way. You can't let this kind of thing
21 happen.

22 There was another incident with Mr. Osenkowski in
23 March of 2002 where we had a bomb threat in our
24 building. It was a bomb threat, I was left in my -- I
25 was the only one left in the office. My office is next

1 to Mr. Osenkowski's. I had signed in on the sign-in
2 board which is directly outside of his office. Within,
3 I believe within an hour after I had signed in, and
4 normally my door is shut because I have an air purifier
5 on, and I happened to be dictating that day but I can
6 still hear voices outside.

7 I was left in my office for it was close to two
8 hours. No one told me there was a bomb threat. No one
9 knocked on my door. Everybody else was cleared out.
10 People would walk right past my door and no one took it
11 upon themselves to tell me.

12 I walked out of the building -- first I walked out
13 of my office and I realized that I was the only one left
14 in the building. I started down the hall to the
15 Sheriff's Department. No one else was there. I got out
16 to the street and I saw the sheriffs and I said, what's
17 going on? They said, there's a bomb scare, what are you
18 doing? I said, no one told me that there's a bomb
19 scare.

20 No one told me and I just -- obviously, and I've
21 told people before, if it was your child that was left
22 in a school and they weren't notified, how would you
23 feel? I was left in that building for almost two hours.
24 No one -- do I think that Mr. Osenkowski intentionally
25 said leave her there? I don't know. I can't help but

1 believe as retaliation, perhaps, because I was the only
2 one in that whole building, that whole courthouse that
3 was left.

4 I went out to the street and I found some people
5 from the Probation office, and I explained to them. Joe
6 was there. Tom was -- no. Joe was there, Hank was
7 there, a couple of secretaries, Kathy, I believe was
8 there. And I went out, and Mr. Turo, the Public
9 Defender, and I said, I was left in there, I was left in
10 that building, I was by myself. No one told me.

11 Mr. Osenkowski, his concern was -- he walked over
12 to Kathy Zeigler and he was concerned -- he had a
13 training or a conference he had to go to. He was
14 concerned that to make sure that the search dogs they
15 take through the building knew about our ammo down in
16 the basement. Not like, I was just -- I had been doing
17 so well with the counseling, doing so well, and
18 absolutely -- so do I think it was intentional? I can't
19 imagine why they would let me there. And he's in charge
20 of that department. It was his responsibility to make
21 sure all his employees were out.

22 Q Are you okay?

23 A. Yes.

24 This year at another time -- no, year 1998,
25 Mr. Osenkowski came to me and he told me that Judge

1 Hoffer said I was not allowed to be in another Probation
2 office, which is down the east -- we have a main office
3 in the main courthouse, and down -- I need to take a
4 break just for a second.

5 (Recess taken from 9:37 until 9:41 a.m.)

6 BY MR. ADAMS:

7 Q We talked about quite a few things at once and I'm
8 going to break them down one at a time, if that's okay?

9 A. That's fine.

10 Q How long have you known Mr. Osenkarski?

11 A. Several -- well, I met him when I started with Children
12 and Youth just in passing. Talking to him, probably I'd
13 say '93, '94, something like that, some conversations.

14 Q Explain to me, and forgive me for not being totally
15 familiar, please explain to me where Children and Youth
16 is located in comparison to the Probation Department in
17 the building.

18 A. Right now they're located down the street in another
19 building called the Human Services Building. Prior to
20 that they were located on the third floor, same floor
21 that Probation was on. We were in what's called the
22 east wing, it was an annex connected by a hallway. And
23 all the same floor with a common lunch room area.

24 Q Okay.

25 A. Shared by lots of, all the, you know, the whole

1 courthouse.

2 Q Okay. And could you be in, hypothetically could you be
3 in the Children and Youth Services Department and hear
4 things going on in the Probation Department down the
5 hall?

6 A. No, we couldn't.

7 Q Okay. If things or activities are going on in the
8 hallway between that department and the other
9 department, is there some overlap or interaction
10 between the two departments?

11 A. Probably only in the lunch room area, because for them,
12 the courthouse, most people would exit out of the
13 courthouse, and we had our own exit out the east wing.

14 Q Okay. You said you had your own exit out the east wing?

15 A. Right. There's a back exit out the east wing.

16 Q Okay. Is that just an exit that everyone by chance uses
17 because it's the closest door?

18 A. Yeah. It's just part of that exit from that building.

19 Q Okay. When you were with Children and Youth Services
20 was that the door that you would use to come in and out
21 naturally?

22 A. Yes. When I was with Children and Youth, yes.

23 Q In case of an emergency would that also be the door you
24 would go out of?

25 A. Yes. The stairways, yes.

1 Q How did you know that?

2 A. Probably there are exit signs, I would assume, and
3 stairways. I know the elevator's right beside the
4 stairway. Of course, it says don't use the elevator.
5 But there's an exit out.

6 Q Okay. No one told you that that's the exit you use for
7 emergencies when you were in Children and Youth
8 Services, right?

9 A. There probably -- we probably had fire drills, yeah, and
10 they would say which way to exit.

11 Q Who would say that to you?

12 A. That would be, then it was the personnel -- the county
13 would run fire drills. I assume it came through the
14 Sheriff's Department or the fire companies, I don't
15 know. But we would have fire drills.

16 Q Okay. So you think the county's responsibility,
17 emergency process in fire drills, you think that goes
18 back to the county's responsibility; is that correct?

19 A. To ensure safety, sure, of the workers. Absolutely.

20 Q When you were with Children and Youth Services is that
21 when the Sheriff's Department would come and help with
22 the evacuation in case of an emergency, things like
23 that?

24 A. I don't recall. I just remember our director saying,
25 and in an evacuation we more sort of followed each other

1 knowing how to get out, it was that type of thing. I
2 don't remember any actual training or anything.

3 Q Or any protocol?

4 A. No. Just, you know, us being told and signs saying you
5 exit this way.

6 Q So the key with you when you were with Children and
7 Youth Services in terms of exiting for an emergency or
8 even a fire drill was you follow everyone else; is that
9 correct?

10 A. In general, yes.

11 Q Would that be the same with the Probation Department,
12 that basically in an emergency or something happens,
13 everyone follows everyone else out of the building?

14 A. I think just common knowledge you use the stairways as
15 in any building, you would not take the elevator, use
16 the stairway closest to you, and that would be common
17 knowledge, I would think, anywhere.

18 Q You follow everyone else to exit?

19 A. Basically, yes.

20 Q Okay. At some point when you were with the Probation
21 Department you were given an office that was, it was a
22 closed-door office; is that correct?

23 A. Yes.

24 Q Okay. And that office didn't have any window, did it?

25 A. Yes, it does. It has a window out to the secretarial

1 area. It's not to the outside, but there's a sliding
2 glass window that right outside there the secretaries
3 sit.

4 Q And while you're sitting down can you see the
5 secretarial staff as you just described?

6 A. Generally I would -- we had, like, little mini blinds.
7 I would keep them turned so that the secretaries
8 couldn't see the clients that I had in there. But I
9 could see enough I could see the clock. But I really
10 didn't want my clients or them to see, you know, what
11 was going on in the office with clients.

12 Q Okay. And you had this office, this closed-door office
13 at the time of the incident which you felt you were left
14 in the building; is that correct?

15 A. Yes, I did.

16 Q Okay. So when there's a fire drill that actually
17 happened on that day that you just described, you
18 couldn't see people going back and forth; is that true?

19 A. No, I did not. I was dictating. But everybody in the
20 office was aware that my door was shut.

21 Q How do you know that?

22 A. Because it was just common. They knew I had the air
23 purifier in there. It was just a common thing. My door
24 was shut most of the time.

25 Q Is that why you had that office to yourself, because of

1 the air purifier?

2 A. No, I had gotten that office seniority-wise. It was one
3 of those things, that's the thing as you move up in the
4 seniority, if there's an office by yourself, that's sort
5 of something you sort of achieve to. And I was senior
6 and able to take that. When we really -- it was when we
7 split our departments.

8 Like I said, Mr. Osenkowski was aware I was in the
9 building. So were the other, the secretaries and stuff
10 were aware that I was there. And I had signed in on the
11 board which is directly outside of his door. At a very
12 glance you can see who was in and who was out.

13 Q Okay, okay. When Gary Graham was a supervisor in the
14 Probation Department he used to yell at other folks as
15 well; is that correct?

16 A. Not as much as he did me. Not nearly as much.

17 Q How much would he yell at others?

18 A. I don't -- it really wasn't, not so much. He would get
19 loud with them. Never that much derogatory to them,
20 like your F-ing ability or actually making direct
21 comments to them about them. It was more in anger
22 talking about other things, F this, F that, or about
23 other people, about the chief, about everybody.

24 Q So he would say F that hypothetically about anything or
25 everyone?

1 A. You heard him use that quite a bit, yes.

2 Q And Mr. Osenkowski was familiar with Mr. Graham's
3 language; is that correct?

4 A. Oh, yes.

5 Q Okay. But isn't that sort of the climate of the
6 department, persons are sort of free for all speaking
7 all types of ways?

8 A. You don't -- no. You don't hear that constantly in the
9 offices at all. That was not a constant thing. I can't
10 really think of anybody else who would be that -- he was
11 always just an angry, angry man, after we split and he
12 basically got power, got the authority that he could do
13 what he wanted.

14 He would be angry before that, about his wife,
15 about situations, about bosses, about anything. But it
16 was directed at me is what caused the problems for me,
17 when it was actually at me, the language, the anger,
18 that kind of, and the threats.

19 Q Okay. When you say split, you mean that you and Gary
20 stopped seeing each other?

21 A. No, no, no. When the Department split, the juvenile and
22 adult, after the Department split.

23 Q Okay, thanks.

24 A. And he sort of was left to be in power. Mr. Osenkowski
25 started delegating it to him.

1 Q But you were aware that Mr. Osenkowski's style
2 nevertheless was a hands-off approach to management?

3 A. I didn't know it was that extreme, that he would let
4 Gary do whatever he wanted to do.

5 When I started there, Ken Bolze was still chief.
6 Ken Bolze kept basically a lid on Mr. Graham and on
7 Mr. Osenkowski, that, you know, they had to go through
8 him before -- they had to answer to Mr. Bolze.

9 Q In terms of emptying out the building, clearing the
10 building of personnel when there's an emergency or a
11 fire drill, what do you think the responsibility is of
12 the Sheriff's Department in that situation for the
13 building?

14 A. My understanding is they come around and they assure
15 that every office has been cleared out. They look to
16 the directors of the department, whoever -- they always
17 look to whoever is senior officer in there, whether it's
18 chief or whoever is there, to assure that their office
19 is cleared.

20 And I believe they checked when they get out and
21 it's the chief or whoever is in charge, to meet with.
22 I'm not sure whether -- it's another department, they
23 have to meet with them and assure that their department
24 is clear, that everybody was out. And then I know the
25 sheriffs will go around afterwards with their dogs and,

1 you know, checking for bombs.

2 But ultimately it is the department head, whoever
3 is the department head at that time when it happens, to
4 make sure the office is cleared.

5 Q Okay. And how do you know that?

6 A. We had one prior to that, and we were evacuated. And at
7 that time they were going around getting all the
8 department heads together as soon as everybody was
9 cleared, saying, is all your people out, have you gone
10 down the roster, who was there, gone down the roster and
11 made sure they were out. And I assume that's the same
12 procedure they would follow.

13 Q The Sheriff's Department goes to the department head in
14 most cases?

15 A. I believe it's Personnel, well, Human Resources that
16 goes around and says -- the departments make a list of
17 who was in that building -- did you make sure they were
18 out, assuring that they were all left the building.

19 Q Okay. So during the drill, fire drill or emergency,
20 you're saying that --

21 A. During the bomb scare yes.

22 Q Bomb scare, I'm sorry, in this instance --

23 A. Right.

24 Q HR was the person, someone from HR would go to the
25 department heads and to determine if everyone was

1 accounted for?

2 A. Yeah. I believe was the Clerk of Courts. No, chief
3 clerk, chief with personnel. Those were the two people
4 that were in charge of in that the department had to
5 contact them to make sure everybody was out of the
6 building. So it was sort of that chain of command.

7 Q The bomb scare that you are referring to today, on that
8 particular occasion isn't it true that you were
9 physically already outside the building by the time HR
10 actually requested that Osenkarski report to them about
11 who was in and who was out?

12 A. I would have no idea about that. I know during the
13 initial bomb scare that they were on top of that very
14 quickly, wanting to know and saying you make a list as
15 soon as you got out. I heard them tell our secretaries,
16 telling our secretaries, who was there, make a list,
17 let's make sure they were all out of building. And so
18 they seemed to be on top of it in our first bomb scare.

19 Q Okay. Are you aware that Mr. Osenkarski after the
20 incident and with the bomb scare, actually went to the
21 HR department and advised them that there needed to be
22 more established protocols so that this would not happen
23 to you again?

24 A. It was my knowledge that Chris Miller, who was Human
25 Resources director at that time, called Mr. Osenkarski

1 down and that she had spoke to the chief clerk. They
2 had all gone up to talk to Judge Hoffer about this.
3 That's what Chris had told me. And as a result of that,
4 Mr. Osenkarski was told to come down and work on
5 something, see what they could do to correct it. That
6 was my knowledge.

7 Q Okay. How do you have that knowledge?

8 A. From Ms. Miller. She was the Human Resources director
9 at that time.

10 Q Yesterday you testified about your educational
11 accomplishments, and I'd like to congratulate you on
12 those.

13 Did Mr. Osenkarski assist you in any way in terms
14 of pointing you in the direction for financial aid or
15 anything of that sort to progress your educational
16 goals?

17 A. Mr. Osenkarski informed me of a grant program that would
18 be available for my daughter. At that time I had, there
19 was three of us in college, my son, my daughter and
20 myself. And the policy was you had to have three people
21 in college to take advantage of that. He gave me
22 information about that grant program. I was able to
23 take advantage of it for one year. It was only one year
24 crossover with my children. So that helped with one
25 year. Yes.

1 Q Is that it in terms of helping you or pointing you in
2 the right direction for your for assistance?

3 A. Yes. Yes.

4 Q You also testified yesterday that Mr. Osenkowski knew of
5 your hysterectomy?

6 A. Yes.

7 Q How do you know he's familiar with that procedure?

8 A. When I had the procedure, I had -- my doctor wrote a
9 note saying that I would be out for such amount of time,
10 and in there is -- it was a medical excuse, basically.
11 But I also explained to Sam Miller, who is my direct
12 supervisor, because I was going to be off for a week I
13 felt, you know, that's a long time. I think it's over
14 three days you have to have a doctor's excuse. And I
15 explained to Mr. Miller I was going to have the
16 procedure. And Mr. Osenkowski is his, you know,
17 supervisor, so I'm sure that came up. But there was a
18 medical excuse from my doctor the reason why I would be
19 out.

20 Q Okay. But you're not sure that Mr. Osenkowski actually
21 saw that medical excuse, are you?

22 A. It was given to him.

23 Q By you?

24 A. Yes.

25 Q Okay. What date was that?

1 A. October of '97. I know it was around Thanksgiving --
2 not Thanksgiving, I'm sorry. There was a holiday in
3 there. Somewhere in the middle of October. I believe
4 it was a holiday.

5 Q Are you aware that Mr. Osenkowski's ex-wife had a
6 hysterectomy?

7 A. No, I did not know that.

8 Q Are you aware that Mr. Osenkowski has shared that
9 information with at least one person in the office?

10 A. No, I'm not aware of that.

11 I personally found it offensive even talking about
12 hysterectomies and women with a new young employee. And
13 she mentioned it to me because she was uncomfortable.

14 Q Who was that?

15 A. Gail Schuhart, a new probation officer.

16 Q Gail Schuhart is the person that told you what?

17 A. That Mr. Osenkowski said to her that hysterectomies ruin
18 women.

19 Q So he never said to you, Mr. Osenkowski, directly about
20 that?

21 A. No, he did not.

22 MR. ADAMS: That's all I have. Thank you.

23 BY MS. WILLIAMS:

24 Q Ms. Varner, I'm Taylor Williams and I represent the
25 Commonwealth of Pennsylvania for the Ninth Judicial

1 District for the Common Pleas of Cumberland County.

2 I would remind you that you are still under oath.

3 Do you understand that?

4 A. Yes, I do.

5 Q And the same ground rules that were discussed yesterday
6 by Mr. Thomas and this morning by Mr. Lancaster Adams
7 also apply to our conversation. That is, if you answer
8 a question, I will assume that you have understood it
9 and heard it, and if I need to clarify a question or
10 repeat it, please feel free to ask me to do so.

11 A. Okay.

12 Q Have you ever given a deposition before?

13 A. No, I have not.

14 Q Have you ever brought another lawsuit?

15 A. No, I have not.

16 Q You were discussing the bomb scare a few minutes ago.

17 Was there actually a bomb that day?

18 A. No. No, there was not.

19 Q No bomb was found?

20 A. Not that I know of.

21 Q Did you have any conversation or notify Judge Hoffer,
22 President Judge Hoffer of any of the events involving
23 the bomb scare?

24 A. Chris Miller, the Human Resources director, she told me
25 that her and Mr. Ward -- no, I'm sorry, it's not John

1 Ward. It was chief clerk, John Connelly had spoken to
2 Judge Hoffer about that.

3 Q Did you speak with Judge Hoffer about it?

4 A. No, I did not.

5 Q Do you know the result of their conversation?

6 A. No. Only what Chris would tell me, and what had
7 happened -- I need to back up a few years to explain the
8 rest of your question.

9 In 1998 Judge Hoffer had told Mr. Osenkarski that I
10 was not allowed to go down to the third floor annex,
11 which was when we split adult and juvenile. Part of our
12 department, the juvenile department and part of the
13 adult department moved down to the old Children and
14 Youth office which was at the east wing. So there was
15 half adult and half juvenile.

16 In that time frame, Mrs. Graham, who is a court
17 stenographer, had moved down to several of those offices
18 because they were renovating her, their office area.
19 Joe Osenkarski told me that Judge Hoffer said I was not
20 allowed to go in that department because Mrs. Graham was
21 bothered when I walked in there and that I was not to go
22 in there. And I said to Mr. Osenkarski, it's a public
23 office, it's part of our department, there are probation
24 officers down there I need to interact with and have
25 work with, and I didn't see that was right, and I asked

1 him to have Judge Hoffer put that in writing.

2 Judge Hoffer had his secretary call me up, and I
3 was up in his office within a day or two. And Judge
4 Hoffer told me I was not allowed to go down into that
5 office at all, I was to stay out, that Mrs. Graham was
6 going to have a breakdown if I didn't stay out of there.
7 And I explained to him that it's a public office, I have
8 business in there. And he left me know, he said, do you
9 understand what I'm saying? You are not to go in this
10 that office. And again, I said, it's a public office, I
11 don't think that's fair. Needless to say, Judge Hoffer
12 left me know I was not to go there.

13 So from 1998 till 2002 I was not allowed in a
14 public office in a courthouse. Embarrassing, very
15 difficult to deal with.

16 But after this bomb scare I had requested that I be
17 moved from my office where I was at in the courthouse
18 down to one of the offices in the east wing where there
19 were other people where I could feel safe. I know my
20 friends were down there and I knew that probably they, I
21 was sure they would alert me if there was another bomb
22 scare. I just didn't feel comfortable up there,
23 thinking that if this would happen again and there
24 really was a bomb. That was a concern.

25 Q Judge Hoffer have an objection to your moving down

1 there?

2 A. I had to put it in writing. I had to put a request in
3 writing that I wanted to move down there. Hank
4 Thielemann -- I put it in writing. I was sitting in the
5 court -- in fact, I wrote it in a Human Resources office
6 on one of those secretary's computers. Chris Miller had
7 asked me to put it in writing that I said I wanted to
8 move down there because I was afraid that I would be
9 left behind again. I felt more comfortable down there
10 and I was requesting for me to move.

11 Hank Thielemann carried it up to Judge Hoffer. He
12 said I had to put it in writing who I was going to share
13 an office with, how long I planned to stay there. And
14 at that time I was sitting in Chris Miller's office and
15 I said, this is absolutely ridiculous, nobody else when
16 they move offices have to get permission from the judge
17 to do this. So, finally --

18 Q Who else has moved an office?

19 A. At that time, well, I had moved before. I moved from
20 one office over to that single office when we split
21 departments. There was so much movement. There have
22 been hired new school-based probation officers who have
23 moved into different parts of the Department.

24 Q Do you know what was required to make those moves?

25 A. I think it was just Joe Osenkowski's okay. He was the

1 chief.

2 Q Do you know that?

3 A. As far as I'm ever -- no, I don't know that for sure
4 that they did not discuss it. But Judge Hoffer when I
5 did, he did allow me to move down there, he came down
6 personally and met with the -- he called the girl who
7 was going to be my office mate, Gail Schuhart, and asked
8 if it was okay. He contacted one of the gentlemen who
9 was going to have to move his office out of the one
10 offices, asked him if it was okay. It was a procedure
11 that had never, as far as I know had never been, had
12 never occurred before.

13 Q In what respect was he asking Gail was it okay?

14 A. Would she be okay sharing an office with me, that kind
15 of thing.

16 Q I'm going to show you a document that I'll ask the court
17 reporter to mark as Plaintiff's Exhibit 6.

18 (Varner Deposition Exhibit No. 6 was marked.)

19 BY MS. WILLIAMS:

20 Q Is Plaintiff's Exhibit 6 the memo that you just told
21 me about that you typed to Judge Hoffer asking for a
22 change in your office space?

23 A. Yes, it is.

24 Q Now, there's handwriting on there. Is that your
25 handwriting?

1 A. Yes, it is.

2 Q Now, the note that you put on there, you have three
3 exclamation points. Why did you put those exclamation
4 points there?

5 A. For him to ask me how long I'll be there, who I'm going
6 to be sharing, what desk -- what I'm going to be, what
7 exactly desk I'm going to be using? I wasn't allowed in
8 that area, how would I know?

9 As far as how long, I don't know how long this is
10 going to be where I would feel comfortable anywhere at
11 that point.

12 Q But that was not because of your gender, was it?

13 A. About as far as moving and stuff? I don't believe so,
14 but I don't know. I don't think anybody else has had to
15 do this kind of thing to move their office.

16 Q But you don't know for sure?

17 A. No, I do not know for sure.

18 Q Okay. You had provided to me through your counsel a
19 series of handwritten notes.

20 A. Yes.

21 Q I'm going to ask you, did you supply all the handwritten
22 notes that you've made about this case, to your counsel?

23 A. I believe I have, yes.

24 Q Do you recall the date of the last handwritten note you
25 had submitted --

1 A. No, I don't recall the date.

2 Q -- to counsel?

3 A. No, I don't recall.

4 Q Do you continue to keep handwritten notes about the

5 case?

6 A. Yes.

7 Q And do you continue to provide them to your counsel?

8 A. Things like this, yes.

9 Q When was the last time you gave your counsel a

10 handwritten note?

11 A. This perhaps was the last handwritten note, I believe.

12 Q And what's the date of that?

13 A. Looks like March 27, 2002.

14 Q So you've submitted no further handwritten or notes or

15 diary submissions since that time?

16 A. I would have correspondence with my attorney, but not --

17 more on dates and times and what's going on with the

18 case. But I just -- at this point I cannot recall any

19 other handwritten notes since then.

20 Q You can assure me that any handwritten notes you do

21 have, will be supplied to your counsel?

22 A. Certainly.

23 MR. MacMAIN: Off the record.

24 (Recess taken from 10:10 until 10:21 a.m.)

25 (Varner Deposition Exhibit No. 7 was marked.)

1 BY MS. WILLIAMS:

2 Q Ms. Varner, I've given you a document which I've asked
3 the court reporter to mark as Plaintiff's Exhibit 7.

4 Can you identify that package of documents for us?

5 A. It's just my personal notes that I took.

6 Q Are those the notes that you told Jim Thomas yesterday
7 were written on a pad, a notepad?

8 A. Just various pads, yes.

9 Q You remember discussing them with Jim yesterday?

10 A. Yes. That we had provided, yes, the notes, personal
11 notes, yes.

12 Q And these are those notes?

13 A. Yes, they are.

14 Q When were those notes made?

15 A. They were ongoing. '96, '98, '97.

16 Q Were they made as --

17 A. '99.

18 Q -- various actions occurred?

19 A. Yes.

20 Q Or did you go back and fill in some information?

21 A. Most of the time it was as they occurred so I wouldn't,
22 you know, forget things.

23 Q Is some of the information filled in later?

24 A. The only thing I believe filling in later was actually
25 the trips.

- 1 Q When you say the trips?
- 2 A. I'm sorry. It's back towards the back, there's a list
3 of trips that I could remember that I had taken with
4 Mr. Graham.
- 5 Q What is the date?
- 6 A. '96.
- 7 Q But the rest of the notes you say were written
8 contemporaneously with the actions taken?
- 9 A. Yes, that's true.
- 10 Q I'd like to direct your attention to a page of the
11 notes, and I'll reference it by telling you that in the
12 upper left-hand corner there's a number 7 printed.
- 13 A. Okay.
- 14 Q And at the bottom of that page number 7 you have an
15 entry dated 7/11. Do you see it?
- 16 A. Yes.
- 17 Q Do you remember what year that note was written?
- 18 A. It would have been '97.
- 19 Q And you say in that note you saw Judge Sheely?
- 20 A. Um-hum.
- 21 Q Would you tell me under what circumstances you saw the
22 judge?
- 23 A. I had gone up to the judge's chambers to take a file up.
24 We had court within the next day or so. I had gone up
25 to take a file up, and when I walked into the office,

1 his regular secretary was not there but he had one of
2 his law clerks, she was typing, in the process of typing
3 a letter. And what I found out that it was the order he
4 was making or what he planned to do as a result of my
5 complaint, what his resolution would be. When I walked
6 into the office the judge said, come over here. And he
7 said, I just want you to know I've made a decision, and
8 then he said, why don't you come into my office with me.

9 So I walked into the judge's chambers with him, and
10 he proceeded to tell me that Mr. Graham and his wife and
11 Attorney Dave Foster had come to him, I believe it was
12 the day before, I believe, that they had, Mr. Graham had
13 confessed to this alleged affair to Judge Sheely. Judge
14 Sheely told me that he felt so sorry for them, that I
15 had ruined their family.

16 And I explained to Judge Sheely that it was all an
17 orchestrated thing, because up to that point as far as I
18 know, this alleged affair had never come up during the
19 whole investigation into anybody else. And I said to
20 Judge Sheely, if you were a man would you confess in
21 front of public, would you confess in front of a judge,
22 in front of an attorney, or wouldn't you be more
23 discreet and tell your wife at home and then handle it?

24 I feel it was a ploy, because I knew Barb Graham
25 had worked with Judge Sheely. He had basically a tender

1 spot for Barb Graham. And I said to the judge, it did
2 not happen. And he said, well, I'm telling you, it was
3 just horrible, they were both crying. And just, you
4 could tell he had been -- it had been emotional for
5 Judge Sheely.

6 Q Is this the first time you had talked with Judge Sheely
7 about your complaints?

8 A. Yes, it is.

9 Q You never asked for an opportunity to speak with him
10 prior to this?

11 A. No. And I was surprised he did not ask for my attorney
12 and myself to meet with him prior to making this
13 decision. It was just made on an emotional time when --
14 and he just decided he was going to make this decision.

15 And he said to me, at that time he said that he
16 knows that they, well, meaning Joe and Gary, have been
17 asshole buddies for years. He said, I know they get
18 into a lot of stuff, they've been asshole buddies. And
19 he said, I'm not going to do anything else, you --
20 meaning me -- you have damaged this family enough. And
21 I said, I did not damage this family, the man who is
22 causing this is Mr. Graham, and I said, I just wanted
23 the harassment, I just wanted it to stop. And --

24 Q Could you and your attorney, and/or your attorney, have
25 requested a meeting with Judge Hoffer?

- 1 A. He was writing the order at that time.
- 2 Q I'm sorry, I meant Judge Sheely. Strike that.
- 3 A. He was in the process of writing the order. He said,
4 I've made my decision.
- 5 Q Prior to that, could you have made an appointment with
6 Judge Sheely and spoken to him?
- 7 A. We didn't know where it was at. Dave Deluce had told my
8 attorney that we would be very happy with the
9 recommendation that they had made as a result of the
10 their investigation, and we assumed we would be hearing
11 from them. This was a sudden thing as far as I was
12 concerned. But I was just surprised that the judge did
13 not give us the courtesy of meeting with us and letting
14 us have our say.
- 15 Q But did you ask for such a meeting?
- 16 A. I believe I did mention it to him.
- 17 Q When?
- 18 A. At that, when I was in his office talking to him.
- 19 Q And what did he say to you?
- 20 A. He said, he had told -- he said, I have made my
21 decision. He was just so emotionally taken up by what
22 he had witnessed in his office.
- 23 Q Is it your understanding that Barbara Graham was there
24 when Judge Sheely talked with Gary about the affair?
- 25 A. That's when the confession was supposed to have

1 happened. At least that's what Judge Sheely told me.
2 He said, they came up before me and they confessed, they
3 were both crying, and said it was horrible. And he kept
4 saying, look what you have done to their family. And I
5 said, Judge Sheely, I, I did not do anything to the
6 family, I did not have the affair, it was all a
7 performance for you.

8 Q Do you know for sure that Gary had not told his wife
9 about the alleged affair in private before meeting with
10 Judge Sheely?

11 A. I have no idea. All I know is I think it was using the
12 emotional time and bringing Barb in there. Why would
13 you want to embarrass her again in front of the judge
14 and in front of your attorney if not to use it as an
15 emotional ploy.

16 Q I need you to clear something up for me. I have two
17 documents, both of which have been verified by you.
18 I'll show you the verification. This is titled
19 Plaintiff's Response to Defendant Joseph Osenkarski's
20 Interrogatories, and this is a verification. Is that
21 your signature?

22 A. Yes, it is.

23 Q And I also have there was responses to Defendant
24 Commonwealth of Pennsylvania's Ninth Judicial District's
25 Interrogatories, and that also contains a verification

1 which I'll show you. Is that your verification?

2 A. Yes, it is.

3 Q Do you remember answering interrogatories for both the
4 court defendant and Mr. Osenkarski, the defendant?

5 A. Yes, I did.

6 Q Both of these documents address the statement that you
7 referred to a minute ago regarding asshole buddies. In
8 the response to the court defendant's interrogatory
9 number 9 you say this: Judge Sheely admitted that he
10 and Mr. Graham are asshole buddies and political friends
11 for years.

12 And then in the Answers to Interrogatories that you
13 gave Mr. Osenkarski, and that's your response to number
14 1, you say: Judge Sheely admitted to being political
15 friends with Mr. G's father and told me that he knew
16 Mr. G and Mr. O were asshole buddies for years.

17 Will you tell me which is the correct version of
18 the asshole buddies, pardon that phrase, sorry?

19 A. I had told Judge Sheely about Mr. Graham talking, saying
20 F this and F that to me, and also mentioned to him that
21 he was not aware what all was going on in the
22 department, just letting him know.

23 And I explained to him that there were times that
24 Mr. Osenkarski and Mr. Graham would go to Lebanon to
25 pick up boxes of shoes, saying that they were meant for

1 the detention center and I know personally that they
2 were giving them to their relatives, to their sister,
3 daughters, that they were using them. And at that time
4 is when Judge Sheely said, Joe and Gary, I know they've
5 been asshole buddies for years. And then he continued
6 to say that he has known Mr. Graham's father for years,
7 he was a political -- he helped get him elected and he's
8 known him for years, he would go to political parties at
9 picnics and stuff prior to elections.

10 Q Did that lead you to believe that Judge Sheely had some
11 political motive for finding for Gary?

12 A. I believe so. Absolutely.

13 Q Just so the record is straight, the buddy statement
14 referred to Mr. Graham --

15 A. And Mr. Osenkarski.

16 Q -- and Mr. Osenkarski?

17 A. That's correct.

18 Q And not Judge Sheely and Mr. Graham?

19 A. No. No.

20 Q Now, returning to your handwritten note, if you would,
21 turning the page to the page marked 8 in the left-hand
22 corner, upper left-hand corner?

23 A. Yes.

24 Q On page 8 you state: Gary was gloating after. Do you
25 see where I'm referencing? It's at the end of the first

1 paragraph.

2 A. You're on page 8?

3 Q Um-hum.

4 A. Okay. Gloating after. Yes.

5 Q How was Gary gloating?

6 A. Let me just read.

7 He was -- just the attitude. He was just -- I
8 would have eye contact with him, he would just, like,
9 smirking at me, just happy, just apparent to me that he
10 had won, that kind of thing.

11 Q Did he say something to you that indicated gloating?

12 A. No. That was just my opinion of what I was seeing.

13 Q Further on down the page you say: Gary wrote a letter.
14 It's the second paragraph from the bottom.

15 A. Yes.

16 Q Gary wrote letter little while ago to remind him of
17 political support.

18 A. Yes.

19 Q Am I reading that correctly?

20 A. Yes. I was told that Mr. Graham had written a letter to
21 Judge Sheely prior to this alleged confession reminding
22 Judge Sheely of the political support him and his family
23 had given to him in his election time.

24 Q Who told you about that letter?

25 A. Somebody in the office -- I'm trying to think how I -- I

1 don't recall how I came to that information.

2 Q Do you have a copy of such a letter?

3 A. No, I don't.

4 Q Did the judge ask at some point why you didn't come to

5 him with your complaint?

6 A. Yes, he did.

7 Q What exactly did he say to you?

8 A. Judge Sheely on 12/29/97, it's in the packet, Judge

9 Sheely asked me why did I give letters to Personnel

10 about Gary and Barb, lawyer told me to -- let me see.

11 Told me to, sorry about the whole thing, nothing

12 happened. He can't -- I know he couldn't -- I said I

13 will probably always have the stares and those kind of

14 things but he can't do anything about it.

15 Q He said -- is this, you're looking at a note?

16 A. Yes.

17 Q And it's undated.

18 A. It's -- at the very bottom it has a date on it, 12/29.

19 Q Oh, 12/92, you're right, it does.

20 A. Judge Sheely, why do I give letters to Personnel about

21 Gary and Barb and the lawyer. Told --

22 Q Just so the record is clear, it's in the packet of

23 notes --

24 A. Yes, it is.

25 Q -- that we've been discussing and we've marked it

1 Plaintiff's Exhibit No. 7.

2 A. There's another note in here, too.

3 MR. ADAMS: Four pages past page 10, on the fourth
4 page after 10.

5 THE WITNESS: I know there's a conversation Judge
6 Sheely had with me outside of the elevators on my floor,
7 third floor, one day, not too long after this, that he
8 said that I was going to just have to put up with it

9 BY MS. WILLIAMS:

10 Q This is the second time, a second time that you talked
11 to Judge Sheely about the matter?

12 A. Yes. Yes, I know it's in my notes.

13 Q Well, your note on 12/29/97, if I'm reading it
14 correctly, says: I'm nice lady. Did Judge Sheely --

15 A. He said I'm a nice lady who will probably always have to
16 put up with the stares, he can't do anything about it.
17 He said, sorry about the whole thing, and I said,
18 nothing happened.

19 Q Is this the complete conversation that you had with
20 Judge Sheely?

21 A. As far as -- yes. They were just brief --

22 Q Did you make any response?

23 A. Again, as I told him before, there's not a whole lot. I
24 said to him, underlined it was like nothing happened.

25 And he just said, I'm a nice lady, you'll have to put up

1 with the stares and he can't do anything about it.

2 But there was another time and I believe it's in
3 here, where he said I would just have to put up with it.

4 Q How well do you know Judge Sheely?

5 A. I've known Judge Sheely not personally but I've known
6 him since 19 -- probably '73, '72.

7 Q How did you know the judge at that time?

8 A. Judge Sheely lived beside me when I lived in
9 Shiremanstown. My ex-husband and I lived in an
10 apartment briefly for maybe a year. I met his wife. I
11 would see him but I did not know him.

12 And then when I came to the courthouse, I knew of
13 him just because I lived in Cumberland County, I knew
14 Judge Sheely.

15 Q And you lived right nextdoor to the judge?

16 A. In an apartment. We were in a single house, we were in
17 the back apartment, and his home was beside us.

18 Q Did your ex-husband know Judge Sheely?

19 A. Just I think we might have met him one time, but that's
20 it, just in passing. I saw his wife on occasion.

21 Q Does your ex-husband still live next to Judge Sheely?

22 A. No. Well, there was a period he did, when we lived on
23 Apple Drive. When I left, after I left my home, Judge
24 Sheely and his wife did move into the home beside my
25 ex-husband and his present wife. But now he's not

1 there.

2 Q When did your ex-husband remarry?

3 A. He remarried in 1990.

4 Q Did he remarry someone that you now?

5 A. I did not know her, no.

6 Q Is it someone your present husband knows?

7 A. Yes, his ex-wife.

8 Q We've now discussed two conversations you had with Judge
9 Sheely on this matter. Are there any other
10 conversations that you had with Judge Sheely, who was
11 president judge at the time?

12 A. Not that I can recall at this time.

13 Q What did you tell him when he asked you why you had gone
14 to the county instead of to him?

15 A. That was -- after the investigation, when I went down to
16 Dan Hartnett, because I had gone through the procedure.
17 I asked Mr. Graham to stop, to leave me alone. I told
18 Mr. Osenkarski about it. Nothing was done. I went down
19 to Dan Hartnett and I told him about it. And he never
20 stopped me and said, you shouldn't be here, you should
21 go to the courts. I was following what I presumed was
22 the hierarchy, you know, in the handbook, that if one
23 failed, you go to the next and to the next. And to me,
24 the Personnel Department was the place to go when you
25 have personnel problems. I also knew the EAP program

1 was through there. But not once did Dan Hartnett say,
2 this is not in our -- you should not be here, you should
3 go directly to the judge.

4 So I proceeded with that. And they pulled in Dave
5 Deluce immediately to do the investigation, and I know
6 he would have contact with the judge. So I assumed I
7 had -- I was under the assumption I was doing the right
8 thing.

9 Q Do you know when Judge Sheely found out about the
10 complaint?

11 A. I have no idea.

12 Q You knew you were a court employee?

13 A. I knew I was both. I knew I was an officer of the
14 court, but I also had a personnel book that belonged to
15 the county. And they wrote my checks. My time, my --
16 all my benefits come through the county, through the
17 Personnel office. So most of my dealings as an employee
18 was with the Personnel Department as far as any
19 day-to-day.

20 The judge was there for court, that's basically the
21 contact we had. He did not come down to the office and
22 interact that much or meet with us. So most of my
23 contact was through the Personnel Department.

24 Q But you knew that -- did you know that Judge Sheely was
25 the direct supervisor of Mr. Osenkarski?

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1 A. I knew he was -- right, absolutely. I knew the
2 hierarchy, yes.

3 Q Thanks. You may recall yesterday when we were
4 discussing your EEOC complaint, we marked that actually
5 as an exhibit as P-5. I'll just give it to you to
6 refresh your recollection. You've just told me that you
7 knew that you were a court employee, and yet the only
8 respondent that you named was Cumberland County.

9 Why did you only name the county as the respondent
10 in your complaint to the agency?

11 A. At that point I assumed that the courts were part of the
12 county. We worked for Cumberland County as the big
13 umbrella. The courts were part of a department. It's
14 broken down in the personnel list as the courts, that's
15 a department. Each department is listed. To me,
16 Cumberland County is the big umbrella. The county is
17 the big umbrella and like I said, the court is just one
18 part of that whole arena.

19 Q Did it surprise you to find out that that's not so, that
20 the court is actually a state entity?

21 A. Yes. I was not really aware of that at that time. I
22 knew I was an officer of the court and I had certain
23 rights different than other employees, but I just
24 thought it was under one big umbrella, Cumberland
25 County.

1 Q Now, you've given me two conversations that you had with
2 Judge Sheely. Are there any other conversations about
3 this matter that you had with Judge Sheely when he was
4 president judge?

5 A. Not that I can recall at this time. Well, when I went
6 up -- there would be three total, because when I went up
7 on the 11th and he told me what his plan was, and I met
8 with him in his chambers. And then the two times that I
9 met, saw him in passing, the one where he told me that
10 I'm going to have to put up with it.

11 Q That was at the elevator?

12 A. Yes. And the other one was -- I'm not sure where the
13 other one happened. It was in passing again, that he
14 told me I was a nice lady.

15 Q Oh. That wasn't the same instance, then?

16 A. No, it wasn't. There was two. There was two other.
17 There would be two plus the one in his office.

18 Q Where did the one where he told you you were a nice lady
19 take place?

20 A. I'm guessing maybe up in his chambers, just in passing.
21 He would just stop and ask, you know, things. It was
22 not any formalized, just in passing, like an
23 afterthought for him.

24 Q What did you say to him in that instance?

25 A. He would just make the comment and go on. It was not --

1 I really never thought I want stand and argue with the
2 judge. He would just go on.

3 Q I'd like to direct your attention to P-7. There's a
4 note dated 8/22, apparently '97, somewhere right about
5 in the middle of the stack.

6 A. 8/22. Is there a page number?

7 MR. ADAMS: Taylor, what date, again?

8 MS. WILLIAMS: 8/22.

9 THE WITNESS: Yes.

10 BY MS. WILLIAMS:

11 Q It says: Gary told Nicole Sheely's pissed. Going to
12 find out who talked. See if change their stories when
13 they get on the stand.

14 Who is Nicole?

15 A. To begin with, Mark Galbraith, he was a -- he's a former
16 probation officer. Nicole is now his wife. At that
17 time her name was Nicole, Horwick, H-O-R-I-C-K. She was
18 an adult probation officer.

19 Q And what exactly did you understand the subject of that
20 conversation to be?

21 A. What it was is according to Mark, Gary had sought out
22 Nicole or saw her somewhere and said that Sheely was
23 pissed and going to find out who had talked regarding my
24 case, and see if they would change their stories when
25 they got on the stand, and no one from adult side would

1 be spared, that obviously punishment was going to be
2 doled out, it would be my interpretation of that. And
3 that's how they interpreted it as well.

4 Q I don't understand the who talked. Was there gossip?
5 Is that what the talk is referenced there?

6 A. My understanding is talked -- people were being called
7 down to the Personnel Department at that time during the
8 investigation to tell their, what they had observed in
9 the office. Those kind of things. And it was anybody
10 who had gone down and spoke out about what was going on.
11 And if they were going to testify in court, that they
12 would, I guess under the threat of would they change
13 their mind when they got on the stand.

14 Q I guess I don't see the threat that you're talking
15 about. What there constitutes a threat? What words
16 constitute a threat?

17 A. Well, if the judge is pissed and he's going to see if
18 they changed their story, finding out that the judge
19 feels that way might be intimidation for people to say,
20 hey, you know, I don't want to say anything, I'm not
21 going to talk about this because Judge Sheely is not
22 going to be happy if I really, you know, testify, if I
23 testify.

24 Q But could it mean that he's unhappy that there is a
25 problem in the department? Could it mean something as

1 innocuous as that?

2 A. No, because the reference is when they get on the stand,
3 meaning they have to testify in court.

4 Q If you'll turn the page you'll see another note dated
5 11/19?

6 A. Before or after?

7 MR. ADAMS: It will say 10/27 at the top.

8 MS. WILLIAMS: Yes, thank you.

9 THE WITNESS: Yes, I see that.

10 BY MS. WILLIAMS:

11 Q On 11/19 you say: Was informed by fellow professional
12 that Barb Graham was to have told one of the judges that
13 I confessed to her to having an affair with her husband.

14 Tell me the circumstances of that and everything
15 you know about that.

16 A. This was '97. Right now I cannot recall who that would
17 have been. I'd have to think about that. At this point
18 I'm not sure who that was.

19 Q When you think of it, will you let your lawyer know
20 and --

21 A. I certainly will.

22 Q -- and we'll ask her to let us know as well.

23 A. Sure.

24 Q Moving on through P-7, which is the notes, there's a
25 note written 5/26. I think we talked a little bit about

1 that situation earlier. It's right toward the back,
2 maybe six pages in.

3 A. 5/26 did you say?

4 Q Yes, 5/26.

5 A. At the very top? It's right here at the top?

6 Q Yes.

7 A. Okay, I have that.

8 Q I think we're on the same page. You say: Joe said I'm
9 to conduct business in my office, not down hall.

10 Do you recall that conversation?

11 A. Yes, I do.

12 Q What exactly did Joe -- and I assume that's Joe
13 Osenkarski -- say to you?

14 A. He said that the judge had instructed him to tell me
15 that I was not to go down to the other office, the one I
16 had mentioned I was not allowed to go to. I was not
17 allowed to go down there to conduct any business in the
18 office down the hall, judge's orders, that Barb Graham
19 was distraught. And I requested that I wanted it in
20 writing from Mr. Osenkarski.

21 Q And did you get it in writing from Mr. Osenkarski?

22 A. Yes. I got a letter from Mr. Osenkarski, but I still
23 wanted the judge to tell me.

24 Q So what did you do?

25 A. I got a call from the judge, like I said, within a day,

- 1 within a day or two, where he called me up to his
2 chambers. And he said that I was not to go down to that
3 office for any reason, that any business I had could be
4 handled down at my end. And I explained to him it's a
5 public office, I didn't understand how he could keep me
6 out of a public office. And he said -- he got very loud
7 and he said, do you understand what I'm saying? You
8 stay out of there, she's -- Barb Graham's going to have
9 a nervous breakdown.
- 10 Q Had you complained that Barbara Graham was bothering
11 you?
- 12 A. At that point, yes. There was an incidence of that
13 before, yes.
- 14 Q Did the judge say he was concerned about your safety?
- 15 A. No. He was concerned about Barb having a nervous
16 breakdown.
- 17 Q Did he say that he wanted to keep you separate so that
18 no further incidents would happen?
- 19 A. No, he did not.
- 20 Q Did he ask you to voluntarily keep away from
21 Mrs. Graham?
- 22 A. No. He instructed me to stay out of there. He never
23 said: Stay away from Mrs. Graham. He said when I go
24 into there that I upset her, that she's distraught.
- 25 Q You say you called up by Sandy.

1 A. Yes.

2 Q Who is Sandy?

3 A. Judge Hoffer's secretary.

4 Q When the judge told you this, what did you say besides
5 that it's a public office? Did you say anything else?

6 A. It continues on this page. When the judge called me up,
7 he told me to stay out. He said, she's about to have a
8 breakdown, meaning Mrs. Graham. It says you can conduct
9 your business in your office. If you can't, I'll have
10 to move everybody you have business with down there.
11 And says if you're going to have a lawsuit, do it. This
12 is Judge Hoffer.

13 Q Now, further down there you say: Do you know how
14 embarrassing humiliating for me? Did you say that or is
15 this your reflective note as you're writing the note?

16 A. No. I said this to him.

17 Q What did he say to you?

18 A. He just kept emphasizing I need the stay out of there.

19 I further down, is this, any of this woman's fault,
20 he asked me about Mrs. Graham. And I said, no, it is
21 not my fault, either. I'm the victim. The man who
22 caused all this is still working here.

23 I have to see him, she pushed into me. What
24 about -- and then he said about me to stay away from
25 her. And I said, what about the bathroom on the fourth

1 floor of the court? How about the parking lot? There
2 are places that I feel threatened by her. And he said,
3 do I make myself clear, you stay away from her. And --
4 Q You seem to be reading the note.
5 A. Yes.
6 Q Does this note indicate the entire conversation you
7 claim you had with Judge Hoffer?
8 A. As I recalled it, yes.
9 Q Would you add anything to that, anything that you said
10 or anything that he might have said?
11 A. No. I just went on and --
12 Q Were there any witnesses to this conversation?
13 A. No. No.
14 Q Where was Sandy?
15 A. Sandy -- I really don't -- she's usually out in her
16 office. But the door, the judge's door was closed when
17 he was speaking to me. First he offered me a cigarette,
18 and then he started in on with this.
19 Q Did you take the cigarette?
20 A. No. It's a no-smoking building, and I don't smoke, so.
21 MS. WILLIAMS: Let's mark this one as P-8.
22 (Varner Deposition Exhibit No. 8 was marked.)
23 BY MS. WILLIAMS:
24 Q I direct your attention to P-8. I have this
25 separately. It didn't appear to be in the packet that

1 was provided.

2 Is this in your handwriting, Ms. Varner?

3 A. Yes, it is.

4 Q It says: Joe, I will not be affected by seniority list.
5 He will take care of me.

6 Would you explain what this note means?

7 A. Joe I'm referring to is Joe Osenkowski. And this is
8 when they had been talking about the seniority list and
9 those type of things, and I was complaining about how
10 they planned to change it and move me down on the list.
11 And Joe had told me that not to worry, that I wouldn't
12 be affected by the seniority list, that he'll be making
13 a specialist position for me, a Family Preservation
14 specialist position. And he said it would be -- would
15 have no effect on promotion at all, only on the
16 emergency duty time where you sign up to serve emergency
17 duty on a weekend basis. And that goes by seniority,
18 goes down the list. But that's what Joe had told me
19 that day. It was more if I just relax about the
20 seniority list I will take care of you.

21 Q And did he do that?

22 A. No.

23 Q In what respect did he not?

24 A. There was no specialist position ever developed beyond
25 the one year of grant money for the Family Preservation.

1 Q Do you know why?

2 A. I believe they did not apply for the Family Preservation
3 because the number of referrals on juveniles was coming
4 in, and with Family Preservation was that very low
5 number to supervise and they needed more line people
6 rather than a smaller specialist area.

7 Q Sounds like the circumstances changed?

8 A. Yes.

9 Q Did you see a copy of the report that Judge Sheely wrote
10 on your complaints to the county?

11 A. The Order that he wrote? Or what?

12 MS. WILLIAMS: We'll mark it. P-9.

13 (Varner Deposition Exhibit No. 9 was marked.)

14 BY MS. WILLIAMS:

15 Q Do you recognize that document?

16 A. Yes, I do.

17 Q Do you dispute any of the findings that Judge Sheely
18 made, other than what we've already discussed? If
19 you've already told me about it, you need only reference
20 it.

21 MS. WALLET: I'll object to the form of the
22 question only to the concept of findings. Would you
23 like to identify what you mean by findings?

24 BY MS. WILLIAMS:

25 Q Well, let me ask it this way. Is this the Order that

1 you discussed in our previous conversation about Judge
2 Sheely?

3 A. It is. But I can also note, I read this after quite
4 some time. My attorney had requested a copy of this.
5 The only time I even saw a little bit of it was when I
6 went up to the judge's chambers and his law clerk was
7 typing this and he explained it to me.

8 Q Why do you call it an Order?

9 A. Well, the judge signed it. It's not an Order but it was
10 his decision.

11 Q You had a conversation about this with the law clerk?

12 A. No, no, no. She was typing what Judge Sheely was
13 dictating.

14 Q So you never talked to the law clerk about it?

15 A. No. No. She was just typing it. And that's when he
16 took me into his chambers and told me what he had
17 planned to do. But we had requested a copy of this for
18 quite some time. I know my attorney was very irate that
19 we had not received a copy for quite some time.

20 Q I noticed that she's cc'd on the bottom of it and she
21 did eventually receive copy, did she not?

22 A. Yes, eventually she did.

23 Q Would you take a minute to read over it and tell me if
24 there is anything that you have not discussed with me
25 already that you dispute in Judge Sheely's finding.

1 MS. WALLET: Again, I'll object. The problem is
2 Judge Sheely will say someone told me something. Do we
3 object to the fact that someone told him something?
4 Maybe not. But we might object to the substance of what
5 was said. That's why I would ask you to be specific
6 about what you mean by a finding.

7 MS. WILLIAMS:

8 Q Perhaps we can just say is there anything other than
9 what we've discussed that Judge Sheely states in this
10 memo dated July 11th, 1997, that you dispute or
11 disagree?

12 A. I disagree with how he handled this.

13 Q Yes?

14 A. Okay.

15 Q We've discussed that. Is there anything that we haven't
16 talked about that you would specifically dispute at this
17 point?

18 A. I'd have to discuss with my attorney to find out, you
19 know, actually go over it.

20 Q Factually. We understand that legal conclusions are
21 left to your attorney, but it's facts I'm trying to
22 understand from you.

23 A. I would take exception to that we were best friends.

24 Q Do you know why Judge Sheely would have gotten the
25 impression that you were best of friends?

1 A. I guess because you have a cooperative, you know,
2 working relationship. Best friends, friends would not
3 be a term I would use.

4 Q Is there anything else?

5 A. I call exception to the fact that he never had the
6 opportunity to meet with the two parties in the chambers
7 and try to resolve the matter. He met with Mr. Graham,
8 his attorney, and he met with them I know at least on
9 two occasions. And we had never had the opportunity to
10 meet, my attorney and myself, prior to his making this
11 decision.

12 Q We discussed that you never asked for that opportunity;
13 is that correct?

14 A. Well, at that point this happened, as far as I'm
15 concerned this happened very suddenly, that he made that
16 decision, just after hearing the confession, this
17 alleged confession, that he would act as far as I'm
18 concerned on an emotional basis rather than a factual
19 basis and not meet with all parties prior to this.

20 Q Does it make you angry that Judge Sheely believed Gary's
21 story rather than your story?

22 A. Judge Sheely never actually heard my story from me at
23 all. It was always secondhand information. I was never
24 given an audience with him to talk about it. I had gone
25 through the county, through Dave Deluce, with my

1 understanding that Dave Deluce had contact with the
2 judge on an ongoing basis.

3 Q Had you told your story to Dave Deluce?

4 A. Yes.

5 Q Do you know whether Judge Sheely saw that story as
6 presented to him through Dave Deluce?

7 A. I have no idea. Even the recommendation we have never
8 been given a copy.

9 Q Is there anything else that you would dispute?
10 Factually.

11 A. Not at this time. I leave it open.

12 Q If at any point during the course of the discovery you
13 do find something that you disagree with factually in
14 that document, will you advise your attorney and ask her
15 to let me know that?

16 A. Absolutely.

17 Q At some point did you bring charges against Barbara
18 Graham?

19 A. Yes, I did.

20 Q I think we discussed that a little bit yesterday.

21 A. Yes.

22 Q As part of the discovery process you provided me with a
23 facsimile transmission from you at the Cumberland County
24 Juvenile Probation Department to Debra Wallet, your
25 lawyer. Do you recall that document I'm speaking of?

1 MS. WALLET: Perhaps you could show her.

2 THE WITNESS: If I could see it.

3 MS. WILLIAMS: We can mark it so the record is
4 clear.

5 (Varner Deposition Exhibit No. 10 was marked.)

6 BY MS. WILLIAMS:

7 Q Is that your handwriting, Mrs. Varner?

8 A. Yes, it is.

9 Q And in that fax you state: Debra, B. Graham admitted to
10 the charges. Is that correct?

11 A. Yes.

12 Q Exactly what did Barbara Graham say to admit to the
13 charges?

14 A. The charge of harassment, she admitted to following me
15 or continuing with me to an area where she was not
16 parked, that she continued to my car, beside me,
17 continually talking after I had asked her not to say --
18 I just asked her to drop it. She continued along, which
19 is a continued behavior of harassment, that she had
20 admitted to doing that. She did follow me to my car,
21 that she did continue to talk to me, that she had made
22 the statement that I had this alleged affair with her
23 husband, and that she was angry at me. That is the
24 elements of harassment.

25 Q But the judge found there was no harassment, didn't she?

1 A. DJ Correal felt that Barb Graham had, quote, crossed the
2 line, but she dropped the charges with a warning that
3 she put be put on notice that any further charges would
4 be handled differently.

5 Q Right. I see that's written there.

6 A. Yes. Right.

7 Q Do you know whether there's a transcript of that
8 hearing?

9 A. Yes, there is a transcript I'm sure.

10 Q Have you ever seen it?

11 A. No, I have not.

12 Q Do you remember the district justice in that case
13 telling you that she expected more out of you as well as
14 out of Barbara Graham, as well as from Barbara Graham?

15 A. No, she -- not that I recall her saying that, no.

16 Q If it's in the transcript, would that be true?

17 A. I would assume it would be.

18 Q Do you recall the district justice saying that I have
19 these kinds of cases on a regular basis, and believe me,
20 harassment usually is much more severe than this?

21 A. I don't recall her saying that. She could have.

22 Q But the result was that she was found not guilty of the
23 harassment charges; is that correct?

24 A. What it was, Ms. Graham stated that we had a case --
25 that's, you know, obviously this case -- was proceeding,

1 and Judge Correal said, it sounds like this is going to
2 be handled in another court, whatever, and that she
3 warned her.

4 Q But this is a civil case that you've brought.

5 A. Yes. But I think she saw that the problem that
6 Ms. Graham was bringing up, this alleged affair is going
7 to be at least discussed or handled, the whole issue
8 that probably precipitated this, her anger with me would
9 be handled somewhere else.

10 Q Does that satisfy you? I mean, obviously criminal
11 penalties are different from civil ones.

12 A. My intent was not to have Mrs. Graham have criminal
13 charges. My intent was to put her on warning, because
14 this had not been the first time. It had been an
15 ongoing problem, where her crossing the line or
16 following me or just intimidating. I just wanted her to
17 get the idea that you just cannot continue this. I had
18 the right to go to my parking spot. I already moved my
19 parking spot away from her. That I had the right to be
20 free and feel safe when I'm going to my car. And free
21 from harassment. Just doing that.

22 Q Did you ever bring any criminal charges against Gary
23 Graham?

24 A. No, I did not.

25 Q I'm going to show you a document again provided by your

1 counsel through the discovery process.

2 (Varner Deposition Exhibit No. 11 was marked.)

3 BY MS. WILLIAMS:

4 Q Is this a document you recognize, Ms. Varner?

5 A. Yes, it is.

6 Q It's a handwritten document. Is that your handwriting?

7 A. No, it is not.

8 Q Okay. Whose handwriting is it?

9 A. This is Debra Green, a probation officer.

10 Q Okay. And under what circumstances did Debra Green
11 write this?

12 A. Debra Green was aware of most of the things that were
13 happening. Obviously, she worked closely with me. And
14 she had gone down a list of charges that she felt
15 absolutely would be justified in this case.

16 Q Justified in what?

17 A. Against Mr. Graham.

18 Q All of these are possible charges against --

19 A. Mr. Graham.

20 Q -- Mr. Graham?

21 A. Um-hum.

22 Q What did you do with this information, if anything?

23 A. I had contacted the District Attorney at one time early
24 on and I asked him about pressing charges. It was a
25 phone conversation, and that would have been Skip Ebert.

1 He never got back to me. And --

2 Q Why did you not continue to press the charge?

3 A. The Sheriff's Department was aware of this. CID was
4 aware of this. They were aware that they could bring
5 the charges. CID could bring the charges themselves.

6 Q You had already talked with them?

7 A. Probably at this time, yes, I had spoke to the sheriff
8 as well as CID was involved.

9 Q And that's a contact that you initiated?

10 A. Yes, it is.

11 Q CID never brought any charges against Gary, did they?

12 A. Not that I'm aware of. They were in agreement that he
13 should be removed from the job, he, you know, that he
14 was an angry man, and they had made comments about time.
15 Those kind of comments. But --

16 Q Do you know if Debra Green ever went to CID or the
17 sheriff or the police related to these, this list of
18 potential charges?

19 A. We had also been called down to the Personnel
20 Department. There was a time they -- I'm not sure
21 exactly what they were doing. They were doing an
22 investigation is what they told us. They were just
23 trying to look at different things, and they had called
24 several of us down on an individual basis and said,
25 could you tell us what problems are going on in your

1 department. And at that time we expressed a lot of the
2 concerns; the concerns about Mr. Osenkowski and Gary
3 getting the shoes from this factory under the alleged
4 giving them to a detention center, then personally using
5 them. We had concerns -- we told them all this stuff.

6 I told them about being stalked, and I felt was
7 stalking, coming to my home, being touched, the indecent
8 assault, theft by unlawful taking. Mr. Osenkowski had
9 been known almost notorious in our department as one who
10 removes items from the supply cabinet.

11 Q Mr. Osenkowski?

12 A. Yes, for personal use. That's -- when I first started
13 at Probation I heard that.

14 Q Have you ever seen him do such a thing?

15 A. No. But it was just one of those things they told me
16 that's why they had to lock to supply cabinet.
17 Mr. Graham had informed me of that, too. He would talk
18 about Mr. Osenkowski taking things out of the supply
19 cabinet for personal use.

20 These are things we expressed to them down there,
21 and they told us they would handle them, they could do
22 things. But nothing ever came of it.

23 Q I asked in my Answers to Interrogatories, which you will
24 recall, I asked in my interrogatories which you answered
25 and you will recall I showed you a copy and we discussed

1 your verification of it. But I asked you if anybody had
2 made any admissions regarding the case, and your
3 response was that the memorandum of July 11th, 1997,
4 which we've marked as P-9, contains many admissions
5 about the investigation of my complaints.

6 Can you tell me specifically what you consider to
7 be an admission?

8 A. Could I see the --

9 Q Yes, I'm sorry. It's the memo.

10 A. This one?

11 Q Yes, July 11.

12 A. And again, could you restate the question again?

13 Q Yes. You told me that that memorandum contains many
14 admissions about the investigation of my complaint and
15 the fact that Judge Sheely would not implement the
16 recommendations.

17 What specific admissions do you consider Judge
18 Sheely to have made there?

19 A. Could I see the interrogatory?

20 Q Sure.

21 (Handed to witness.)

22 A. Mr. Graham using the F word and using loud and abusive
23 language.

24 Q That's an admission by Judge Sheely? I'm asking --

25 A. Right.

1 Q -- do you consider that an admission? Okay.

2 A. Admission that he failed to meet with the two parties.

3 Admission he never spoke to me about the
4 allegations.

5 Q He never spoke to you directly before this conversation?

6 A. No.

7 Q Okay.

8 A. He did not.

9 Q Is that the extent of the admissions by Judge Sheely in
10 that memo?

11 A. I think those would be the most important things for us,
12 that he never met with us to resolve the matter and
13 obviously never met with me and my attorney, never gave
14 us the opportunity to do that.

15 Q Okay. And we discussed that earlier and we discussed
16 that you hadn't requested a, specifically requested a
17 meeting.

18 A. Yes.

19 Q I'm actually going to ask you to hold on to this because
20 I have one more question on it.

21 A. That's fine.

22 Q Following down the page, you responded: Judge Hoffer
23 told me that he did not know why Judge Sheely had not
24 taken care of this problem. And you say that's an
25 admission.

1 Tell me about that conversation, about that
2 conversation with Judge Hoffer. Under what
3 circumstances did he say that?

4 A. After Judge Hoffer took office, he had called me up to
5 his chambers and he had said -- he referred to Judge
6 Sheely as Harold. He said he knew about the case and he
7 said he did not know why Harold had not taken care of
8 this problem before he left.

9 Q And what did you say to that?

10 A. And I explained to him that -- I explained a little bit
11 of the whole case, that I felt more should be done, that
12 I didn't think it was enough action taken, that I was
13 still, you know, being exposed to Mr. Graham, I was
14 still being harassed and retaliated.

15 Q What did Judge Hoffer say?

16 A. He had asked me what I had wanted, what I would like to
17 see done. And I don't think the two men should ever
18 supervise females again. Ideally I would like to have
19 them fired. And he said he would look into it. And
20 that's basically it.

21 Q Do you remember the date of that conversation?

22 A. No, I don't. It was -- it wasn't too long after he took
23 office.

24 Q Who initiated that meeting?

25 A. Judge Hoffer did.

1 Q And shortly after, was it shortly after that that Gary
2 Graham was sent to another facility at the prison?

3 A. I'm not sure about the time frame. I know Mr. Graham
4 left our office in May and -- I'm sorry, in March.

5 Q And when would this conversation have taken place, do
6 you recall, when Judge Hoffer first came on as PJ?

7 A. I don't recall the exact date at this time. I believe
8 it would have been the end of the year, end of -- it
9 would have been in -- I believe he retired at the end of
10 the year.

11 Q Judge Sheely?

12 A. Yes. And then it was after that. So possibly at the
13 beginning of the year is when Judge Hoffer called me up
14 and just spoke to me briefly about that. And then March
15 is when Mr. Graham was moved.

16 Q Were there any witnesses to that conversation?

17 A. No, there wasn't.

18 Q Why did you not write a note about that conversation?

19 A. I don't know, I'm not sure, because I might have it on
20 maybe a calendar that I had met with the judge, but.

21 Q Would you check to see if you have a calendar that has
22 any information on that --

23 A. Yes, I will.

24 Q -- conversation.

25 A. Right.

1 Q Thanks.

2 A. It would have been right after, it wasn't too long after
3 he took office, though.

4 MS. WALLET: Can could I ask for a five-minute
5 break, please?

6 MS. WILLIAMS: Oh, yes, let's. I'm getting near
7 the end, you'll be pleased to know that.

8 (Recess taken from 11:26 until 11:35 a.m.)

9 BY MS. WILLIAMS:

10 Q Ms. Varner, are you aware that Mr. Osenkarski was sent
11 to sexual harassment training?

12 A. I heard that he was.

13 Q Are you aware that he submitted a corrective action plan
14 to Judge Sheely regarding your complaints?

15 A. No, I'm not aware of that.

16 Q Let's talk a little bit about the CASA program. Were
17 you involved in the development of that program?

18 A. Not from the onset, no. I think that started before
19 Judge Guido even got on the bench.

20 Q Okay. Tell me when you did get involved.

21 A. I first heard about it when Mr. Osenkarski spoke to
22 several probation officers, I don't know who else was
23 there, but he said that Judge Guido was looking for an
24 officer of the court but also someone who knew maybe
25 some social work, was familiar with dependency court and

1 delinquency court, that they would be working directly
2 with Children and Youth and was wanting to know if any
3 of us were I interested in it.

4 Q When you say Judge Guido was looking for, was this for a
5 specific position or was it part of a committee, or what
6 exactly was it that?

7 A. For director of the CASA program. So that's when I
8 initially heard about Mr. Osenkarski mentioned it. And
9 when I started to think about it I thought, well, that
10 would be a good blend for me because I had prior with
11 Children and Youth, and also an officer of the court. I
12 knew our court system and I knew dependency and
13 delinquency so it seemed like a good fit. I thought I'm
14 just going to look into it.

15 So I met with Judge Guido and he explained it the
16 me. His tipstaff, Carl, gave me a lot of paperwork,
17 people who had written letters of interest, paperwork he
18 had gotten from the York, I believe it was the York
19 program who was a model program for CASA. Just letting
20 me know what it was all about. And he said that they
21 were in the process of writing a grant, and Laura
22 Patterson is grant writer for the county, was the one
23 who was in the process of writing the grant.

24 Q At some point were you appointed to a committee?

25 A. A committee?

1 Q Involving CASA.

2 A. We were just a group of us, really. It was myself,
3 Carl, and the judge, were looking at people we could
4 invite to have a meeting, to try to get some community
5 interest in the program.

6 So we had scheduled a meeting at the Carlisle
7 Country Club, I believe it was March 1st of 2000. I'm
8 not sure about the date but I believe that's when it
9 was. And I had invited some attorneys, some
10 professionals I knew that I had been working with and
11 they had done the same, and we compiled a list of people
12 to attend this meeting.

13 Q Why were people invited to a meeting?

14 A. Just to try to get some community interest, inform them
15 of what CASA was all about. We brought in the director
16 from York who had been running the program so she could
17 inform the people about you need community support for
18 this program.

19 Q And when you say we, you mean Judge Guido?

20 A. Carl.

21 Q You and Carl, what's Carl's last name?

22 A. Connelly, C-O-N-N-E-L-L-Y, I believe.

23 Q Would it be Connellan?

24 A. Connellan, there you go. I'm sorry.

25 Q So what transpired at the meeting that you had?

1 A. At the meeting, Judge Guido ran the meeting, and he had
2 introduced me as the potential CASA director.

3 Q This is the first meeting?

4 A. Yes, as far as -- yes, as a community meeting.

5 Q Are there minutes of that meeting, do you know?

6 A. I'm sure there were. I believe it would have been Laura
7 Patterson's secretary, I believe she was there taking
8 notes.

9 Q And Judge Guido introduced you as the potential
10 director?

11 A. As who he had selected to be the director, yes.

12 Q What exactly did he say?

13 A. He had introduced me and he said that we were hoping to
14 get a program started in Cumberland County, and that I
15 had been chosen as the potential director for it, if the
16 program would get going.

17 Q He said you had actually been chosen?

18 A. He had chosen me, yes.

19 Q What process did you go through to be selected as
20 director by Judge Guido?

21 A. I think the first thing was just showing an interest.
22 Then I met with him and explained my background. I
23 believe I gave him a copy of my resume. He was
24 surprised he did not know I had a master's degree in
25 administration of justice, which was an aid.

1 And I heard about the program. It just sounded
2 like something that I would like to at least pursue.
3 And I asked him at our first meeting if it would be okay
4 for me to go and visit some sites of other locations. I
5 went to Pittsburgh, to York, and had a lot of
6 correspondence, email with other programs, getting
7 information just exactly what CASA was all about. And
8 Mr. Osenkowski allowed me the time to go do several
9 visits.

10 Q Did you talk with Judge Guido about the complaints that
11 you had raised and this lawsuit?

12 A. No. I never discussed that with Judge Guido.

13 Q How many meetings of this committee were there, do you
14 recall?

15 A. I know there was that one. They were trying to get a
16 steering committee, people that would be committed to
17 being on the board. That's what they were looking for,
18 interest and also a board that you would -- you have to
19 have a board to support the program.

20 Q Do you serve on this board now?

21 A. I'm still part of it. I still get the newsletters and
22 stuff.

23 Q Do you attend meetings now?

24 A. No. I've chosen not to.

25 Q Do you recall any talk at these meetings that we've just

1 discussed or in any other context about what the program
2 director's salary would be worth?

3 A. When they started developing the grant they just took my
4 salary. Laura Patterson asked me for my salary, and
5 that's what they put on as in our grant.

6 Q Do you know why she did that?

7 A. I always assumed because I was the one they were
8 choosing to head up the program.

9 Q Did you ever have a conversation with Laura about why
10 that figure was used?

11 A. It was my salary, because it was planned that I would be
12 the director.

13 Q Did you have a conversation with Laura about your
14 salary --

15 A. Yes, I did.

16 Q -- and why it would be used? What exactly did Laura say
17 to you?

18 A. She had been at the meeting, also, that meeting at the
19 country club. And she had heard -- as far as I think
20 both her and I were concerned, we were going ahead and I
21 would be the director. And she was using my information
22 to fill in on the grant.

23 Q Do you recall any discussion of the director's job being
24 a part-time job rather than a full-time job?

25 A. No. No, I did not want part-time employment.

1 Q But did you ever hear any conversation about whether it
2 could be approved as a full-time position?

3 A. From the very beginning it was going to be a full-time
4 position.

5 Q How do you know that?

6 A. All of them, as far as my knowledge, all of them were
7 full-time positions. I don't know, I personally did not
8 know anybody was doing it on a part-time basis in any
9 county.

10 Q Were there meetings perhaps between the commissioners
11 and Judge Guido or between other parties that you might
12 not be privy to, where the salary or the part-time
13 full-time issue might be discussed?

14 A. Well, certainly. I have no knowledge of that.

15 Q Did you ever hear that the commissioners might be
16 willing to support a full-time CASA director position at
17 your salary if it would resolve your lawsuit?

18 A. I never heard that until the very end.

19 Q Tell me about the very end.

20 A. It was, we were in a meeting with the court
21 administrator, I guess assistant court administrator.

22 Q Could you give me the name?

23 A. She's blonde. I cannot think of her name.

24 Q Is it Taryn Dixon?

25 A. Yes, Taryn Dixon. She was there. Tom Boyer was there.

1 Joe Osenkarski was there. Judge Guido was there. I
2 believe Carl was there. And I'm not sure if anybody
3 else was there. And we were basically finalizing,
4 because I had asked that if the position did not work
5 out, that I would be able to come back to Probation. I
6 had asked certain conditions. I had also asked that if
7 Probation would get a raise, that I would get a raise.
8 Those were -- trying to negotiate the final points.

9 Q Right. Were these communicated by you or through your
10 attorney, do you know?

11 A. I'm sure we spoke about that.

12 Q When you say we, who do you --

13 A. My attorney and myself, we spoke about that. Because I
14 wanted assured that I had a job if they did not apply
15 for a grant again. And it was -- my attorney had gotten
16 a call informing us, I believe it was from Mr. Thomas or
17 Dellasega, I'm not sure which one, saying that I could
18 not have the position unless I withdraw my case, my
19 Complaint. That was the first time we heard that there
20 had been anything, one had anything to do with anything,
21 with the other one, any relevance to it.

22 Q And do you remember the date of all this discussion?

23 A. I do not know the date when they contacted her, no.

24 Q Do you have any note about it in your packet? I
25 don't --

1 A. That probably would have been something just between my
2 attorney and myself, my personal notes from her.

3 Q The meeting with Taryn, T-A-R-Y-N, Dixon and Judge
4 Guido, that you had told us about --

5 A. Probably would be on a calendar.

6 Q Will you check to see if there are any notes that you
7 have related to that meeting?

8 A. Certainly.

9 Q So were you ever aware that Judge Guido felt that the
10 CASA director position was not worth the salary that you
11 were being paid at that time?

12 A. No.

13 Q That was never discussed in any of the meetings you
14 attended?

15 A. Judge Guido was aware of my salary when I applied.

16 Q Was there ever any discussion in your presence of what
17 the commissioners felt that salary would be worth?

18 A. No.

19 Q Did Judge Guido ever tell you that he didn't think
20 funding at your probation officer's salary would be
21 approved --

22 A. No.

23 Q -- by the commissioners?

24 A. No, he did not. He said it was a program he wanted to
25 get started, and I think he felt he had enough leverage

1 that it would go through.

2 Q You sent a memo to Judge Guido, and we can mark this as
3 P-12.

4 (Varner Deposition Exhibit No. 12 was marked.)

5 BY MS. WILLIAMS:

6 Q This is a memo dated July 12th, 2000, and it indicates
7 that it's from you. Do you recall typing up this memo?

8 A. Yes, I do.

9 Q Okay. And in this memo you say: I personally
10 presented -- it's in the second paragraph -- I
11 personally presented the grant at the commissioners
12 meeting on June 16th where the terms and conditions were
13 agreed to and signed by the commissioners.

14 What do you mean by presented? What happened there
15 at that meeting?

16 A. They had a commissioners meeting, it was an open forum,
17 and Laura Patterson, the grant writer, had gone with me.
18 And there was a place to sign as a director, agreement,
19 for the CASA program for them, the commissioners, to
20 approve the grant. And it was presented. They already
21 had known about it. They had a copy of it. And it was
22 brought up before the board about the interest.

23 And I believe it was Nancy Besch, one of the
24 commissioners, had stated how -- anyways, one of the
25 commissioners had said how they were for this, they

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1 thought it would be a good community program and that
2 they had signed it. They signed the grant and I signed
3 as a director.

4 Q Are there minutes of that meeting, do you know?

5 A. I'm sure there are.

6 Q Do you have a copy of them?

7 A. No, I do not. It was Laura and myself that went to the
8 meeting.

9 Q Was Judge Guido present?

10 A. No. He was not at the commissioners meeting.

11 Q Did you ever talk to Judge Hoffer about the CASA
12 program?

13 A. I don't recall ever speaking to him about it.

14 MS. WILLIAMS: Off the record a second.

15 (Discussion held off the record.)

16 MS. WILLIAMS: Let's mark that 13.

17 (Varner Deposition Exhibit No. 13 was marked.)

18 BY MS. WILLIAMS:

19 Q Let me ask you if you can identify that document,
20 Ms. Varner?

21 A. Yes. It's the grant proposal for CASA.

22 Q And to your knowledge, is that the grant proposal that
23 was actually submitted?

24 A. To my knowledge, it is, yes.

25 Q Now, you indicated a minute ago that you had to sign

1 this document as the --

2 A. That's correct.

3 Q -- proposed executive director?

4 A. Program director.

5 Q Program director?

6 A. Um-hum.

7 Q Can you point out where your signature appears?

8 A. It's page 6, the very last page.

9 Q Did you say that you signed this in the meeting with the

10 commissioners?

11 A. Yes.

12 Q And what conversation or pronouncements were made around

13 your signing of this document, do you recall?

14 A. Nancy Besch signed it. I was given -- I remember Laura

15 was with me, because I said to Laura, it said

16 administrator board president, and Laura said just cross

17 that out and write program director above that, because

18 she was familiar with how the grant language would be

19 written.

20 Q I'm confused about why a proposed director would be

21 required to sign for a proposed program that is not yet

22 in existence. Do you know why that would be true?

23 A. I think by getting the commissioner's name on there,

24 they were saying they were on, they all agreed to this,

25 that they would follow through, that perhaps if the

1 grant didn't go through, that they would still be
2 willing to, you know, underwrite it. I do not know.
3 All I know is this is how it proceeded.

4 Q But at this point the program was not actually in
5 existence, if I understand correctly; is that right?

6 A. That's correct. But Laura had -- she saw no reason why
7 it would not go. She had met, she had met all the
8 criteria for it. She's a pretty good judge of whether,
9 you know, things go.

10 And I think CASA, the national CASA had said that,
11 you know, they were willing -- they were trying to
12 develop all new programs and the money was available.

13 Q Now, was this before or after you were informed that the
14 CASA director's position was being offered to you as a
15 settlement of your suit?

16 A. This was prior, because in the note that I sent wrote to
17 Judge Guido, the date on my signature here is June 13th.
18 The letter I, memo I wrote the Judge Guido was July
19 12th. And it says as of July 12th I had not heard any
20 more about -- I'm sharing some concerns. It says I met
21 on June 16th. I was making preparations to transfer out
22 of my department, until at the 11th hour when an issue
23 came up regarding my salary. So this was prior to my
24 learning this.

25 MS. WALLET: I'm sorry, you'll have to clarify,

1 which was first?

2 THE WITNESS: Okay. The CASA, when I signed the
3 CASA grant was prior to me being informed that I could
4 not have it unless I withdraw my charges. And that's
5 why I had wrote this letter to Judge Guido, because at
6 that time our quarterly reports for the CASA program
7 just in getting the grant was coming up, and I wanted to
8 get it implemented.

9 BY MS. WILLIAMS:

10 Q What response, if any, did you receive to your memo of
11 July 12th? Which we've marked as P-12.

12 A. I did not get a response. Judge Guido did -- Judge
13 Guido contacted my attorney and requested if there's any
14 way we can work this out, get the case settled, what
15 could we do to make sure I would get the position.

16 Q Did you actually have any conversation with Judge Guido
17 about it after you wrote the memo?

18 A. He also talked -- called me up and asked me if I could
19 do anything about coming up with a resolution that
20 somehow I could have this position, and can I resolve
21 the Complaint, is there anything we can do. And I
22 explained to Judge Guido at that time, I said, I don't
23 see that there's any connection. It was not a
24 connection made to me at the very beginning, they were
25 just coming looking for a director and I just --

- 1 Q What did Judge Guido say to that?
- 2 A. He said he wanted me in the position, he would like me
3 to have the position, and he wanted me to find out if
4 there's anything we could do to work it out and to talk
5 to my attorney.
- 6 Q And did you do that?
- 7 A. Yes, I did.
- 8 Q Were you eventually offered the job?
- 9 A. Yes, at a lower salary, at around 29,000.
- 10 Q Prior to this, although you had signed the CASA grant
11 form, was there a formal job offer made?
- 12 A. Judge Guido had said he wanted me for the position.
- 13 Q Right. But the formal job offer came with the lower
14 salary. Am I understanding that right?
- 15 A. No. Before this, whenever we worked with Laura
16 Patterson, I was under the belief that I had the
17 position at my salary.
- 18 Q But had you signed any documents, any -- I don't know
19 what documents the county would require, but had you
20 signed anything indicating that you were in a new
21 position officially with the county or the court?
- 22 A. The only thing I signed was the CASA, the CASA paperwork
23 as you've noted, with my salary listed as the starting
24 salary for this position.
- 25 Q Is that the extent of the conversation you ever had with

1 Judge Guido on the CASA position?

2 MS. WALLET: You're referring to the several
3 communications she's testified to?

4 MS. WILLIAMS: She's testified to the one where
5 Judge Guido apparently telephoned you or talked with
6 you.

7 MS. WALLET: I guess I'll object to the question.
8 Could you ask the question again?

9 BY MS. WILLIAMS:

10 Q I'm interested in what happened after you found out
11 that there was a tie to resolving the case, that the
12 position was tied to resolving the case. Tell me about
13 every conversation you had with Judge Guido after you
14 discovered that the position was offered only if the
15 case was resolved.

16 A. Like I said, he had called me up and asked if there was
17 any way we could resolve this, and he was aware that
18 obviously that this was becoming an issue. He was
19 informed of the case, and the Complaint. And he just
20 asked me if there was any way I could work it out, work
21 it out with my attorney to come to some kind of
22 resolution for the case.

23 Q Right. Were there any other conversations you had with
24 him?

25 A. I can't -- I don't exactly remember. I don't recall at

1 this point.

2 Q How did you turn down the CASA directorship? Did you do
3 that orally or in writing?

4 A. I told Judge Hoffer -- no, I'm sorry -- Judge Guido that
5 I would not take it at the lower salary and I didn't
6 think there should be any connection between the two.

7 Q Was this in the conversation you just told me about? Or
8 did you have a subsequent conversation?

9 A. I believe there was a subsequent, because I remember him
10 telling me that he was going to start interviewing. And
11 he had like a list of -- is there any way you could work
12 it out and at that salary, I would have to accept that
13 salary, and I said I would not.

14 Q My understanding of that job is that it's finding and
15 training volunteers. Is that an accurate description of
16 the job?

17 A. That's correct, yes.

18 Q Would that job have been a promotion for you?

19 A. No, it wouldn't have been. It would have been lateral.

20 Q In fact, it would have taken you out of the mainstream
21 of probation work?

22 A. Yes, it would have.

23 Q Was someone hired at that lower salary after you turned
24 the job down, do you know?

25 A. Yes, there was.

1 Q Do you know if there have been any complaints about the
2 person who is program director now?

3 A. I have heard complaints from some Children and Youth
4 workers at the very beginning. The reason was that the
5 new director, Anita Brewster, had no idea what
6 dependency meant. She had never worked the court
7 system. And they were just frustrated because you have
8 to go in and be able to read a file, they had the right
9 to read actual case files. You've got to be able to
10 read the file, understand what the court orders mean.
11 She wasn't familiar with our court system, which as
12 everybody knows is different than anybody else's. They
13 were very frustrated with her lack of knowledge.

14 Q Who are those people? Can you give me names?

15 A. Yes. It would be Becky, her name would have been Becky
16 Over at that time. She was a caseworker. Her name is
17 Byers now.

18 Q Do you know if the administration is pleased with
19 Ms. Brewster's work?

20 A. As far as I know, they are.

21 Q And are you aware of the salary that she receives?

22 A. I'm assuming she started at the entrance level salary
23 that they offered me, but I do not know.

24 Q Do you have any other facts other than those you've told
25 me today that indicate your entitlement, the entitlement

1 you claim you have to the CASA position?

2 A. I think I was the most qualified person they could have
3 found in the fact that I had worked dependency, court
4 system, for over five years. I was familiar with all
5 the caseworkers, which you need to be able to work very
6 closely with them. I knew how to do reports. I was an
7 officer of the court so I knew the delinquency system.
8 And there would be times that CASA was supposed to be
9 used for delinquent kids, too. So I was aware of both
10 systems, I knew the courthouse system. I knew the
11 judges. I was familiar with everything that went on in
12 both arenas. I also had a master's degree in
13 administration of justice.

14 Q Did you need a master's degree for that position?

15 A. No, you did not. It was just an aid for me. I think it
16 made me even more qualified for the position.

17 Q Could you have been over-qualified for the position?

18 A. Perhaps. It just would give me relief from the
19 Probation Department at that time.

20 Q I'm interested in whether you have a theory, and this is
21 going back, to why Gary Graham says he has had an affair
22 with you, if you say you didn't have an affair. Do you
23 have any insight or any theory on that?

24 A. Yes, I do. I think if he did not, was not able to hide
25 behind that, he would have no reason to treat me the way

1 he did.

2 I think he -- it's a way for him to punish his
3 wife. I can imagine that Mr. Graham would perhaps say
4 to her, "you wouldn't give me sex but I can get it
5 elsewhere." I could see him using that.

6 But I think going before Judge Sheely and just
7 saying I did yell at her, I did curse at her, I just
8 felt like it, yes, I demanded sex, Judge Sheely would
9 have -- I think he would have taken more drastic
10 measures. Taking his wife up there, confessing the way
11 he did in front of his wife, both in tears, absolutely
12 getting the heart strings of Judge Sheely. And
13 Mrs. Graham had worked for him for a long time. He had
14 watched them have children, bring the young children in
15 to see him. And he was close with the family as well in
16 the political arena. So he knew this family very well.
17 I think that was a whole game plan. I honestly believe
18 she was in on the whole plan, because I think Gary
19 losing his job --

20 Q When you say she, you mean --

21 A. Mrs. Graham, was aware of how it was going to be
22 orchestrated. I really believe that, because I know
23 they had met with Mr. Foster for hours that morning
24 before going up to meet with Judge Sheely. But I
25 honestly --

1 Q You know that Gary and his wife --

2 A. And Mrs. Graham had met with Dave Foster in his office

3 for several hours the day of this confession.

4 Q And Dave Foster is their?

5 A. Was their attorney.

6 Q Was their attorney?

7 A. His attorney.

8 Q How do you know that they met with Dave Foster for

9 hours?

10 A. Well, they were back in their office and my office is

11 right around the corner. But that's my -- I just can't

12 imagine what else. And also, puts this whole case on

13 another level, a different thing. It's a he said/she

14 said thing, which it is not. It is all about power and

15 how I was treated in the environment, how I was harassed

16 and discriminated and retaliated against, when all I

17 wanted to do from the very beginning in March of '97 was

18 to have the harassment stop. That's all I asked.

19 Q When you spoke to Judge Sheely, and we've talked at

20 length about that conversation, the first time you spoke

21 to Judge Sheely about your complaints, was he

22 sympathetic to you at all? Did he say anything that you

23 construed to be sympathetic to you?

24 A. None whatsoever. None whatsoever. He said that I had

25 caused problems in the family. He kept going on and on,

1 you just don't know how upset they were, they both
2 cried. Well orchestrated.

3 Q Did he say to you that he hoped that your family life
4 wouldn't be affected by it?

5 A. Yes, he did.

6 Q Tell me what exactly he said, to your recollection.

7 A. He said, I hope this won't affect your family life. And
8 I said to him, why should it affect my family life? I
9 didn't do anything. I'm the victim here.

10 Q Did you construe that to be sympathetic to you, to say
11 he hoped -- when he said he hoped it wouldn't affect
12 your family?

13 A. Perhaps it could have been interpreted that way.

14 Q You said it was well orchestrated. Are you contending
15 that Judge Sheely was somehow in on a conspiracy with
16 the Grahams?

17 A. I'd say there's a very good possibility that -- I don't
18 think he knew it was going to happen that way, but I
19 think after getting this -- like I said before, I
20 believe there was a letter sent up to him prior to, the
21 day before, reminding him of the loyalty of the Graham
22 family with Judge Sheely in his elections.

23 I think Mr. Osenkarski had met with Judge Sheely to
24 discuss the case, how it could be resolved. I think
25 maybe they discussed how, what they could do.

1 Q Do you have any dates of meetings or any specifics of
2 such meetings?

3 A. No, I do not.

4 Q So you're speculating that this might have happened?

5 A. I am speculating, yes.

6 Q Now, Judge Sheely retired shortly after this --

7 A. Yes.

8 Q -- as we discussed earlier?

9 A. Right.

10 Q At that point, the point of retirement, did he have any
11 more use for political cronies?

12 A. I think Judge Sheely probably always liked to be in the
13 political arena. I think it was more of a he owed them
14 because of the prior support, he felt he owed -- and I
15 believe it was more sympathetic towards Barb Graham, and
16 I believe that's why she was taken up for this
17 confession. I believe that's probably the most
18 important reason she was there, because Judge Sheely did
19 have a soft spot for her.

20 Q Just so I'm clear, are you saying that this wasn't on
21 Judge Sheely's part a determination of credibility, but
22 that it was a conspiracy where he conspired with the
23 Grahams to find that this was an affair?

24 A. I think he struggled with the political connections. I
25 think he really struggled with not so much what was

1 right, what was legal. It was more of I don't want to
2 hurt this family, meaning the Grahams, anymore, that
3 they've suffered enough, and it was directed at me.

4 Q But do you believe that Judge Sheely devised this story
5 of an affair?

6 A. No, I don't believe he devised it. I believe the
7 Grahams did.

8 Q So your position is Judge Sheely was willing to believe
9 their story?

10 A. I think he wanted to believe their story.

11 Q I'm almost finished. I just want to look over a few
12 last notes.

13 Yesterday when Jim Thomas was discussing the
14 occasions that Gary Graham might have had to come to
15 your home, you said that Gary knocked on your garage
16 door. Did I understand that correctly?

17 A. Yes.

18 Q To pick you up.

19 A. Yes.

20 Q How did Gary know to come to the garage door and not the
21 front door?

22 A. When you come to my house -- we leave the garage door
23 open and it's difficult -- not difficult but it's out of
24 the way to go to the front door. The likely way to
25 enter would be the garage door.

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- 1 Q Somebody coming for the first time would know that, in
2 your opinion?
- 3 A. Yes. Yes, generally they do.
- 4 Q Have you ever been the victim of date rape?
- 5 A. No, I have not.
- 6 Q When you divorced your first husband, did you allege any
7 fault ground? Do you know what I mean by that?
- 8 A. If you could clarify that.
- 9 Q In Pennsylvania now you can have a no-fault divorce
10 where basically the parties agree that the marriage is
11 broken, or you can have a divorce where you say you did
12 something wrong, you're at fault.
- 13 Which kind of divorce did you have?
- 14 A. We had a no-fault.
- 15 Q Did you date anyone except Lee Varner between your
16 marriage, the break-up of your first marriage and your
17 marriage to Lee Varner?
- 18 A. No, I didn't.
- 19 Q Are you older or younger than Gary Graham, if you know?
- 20 A. I believe I'm several years older.
- 21 Q Did you find it flattering to have a younger man
22 interested in you?
- 23 A. It really didn't make one difference one way or the
24 other.
- 25 Q At some point did you become certified to be a DUI

1 instructor?

2 A. Yes, I did.

3 Q Does that involve an exam?

4 A. Yes.

5 Q Did you pass the exam?

6 A. Yes, I did.

7 Q Did you pass it on the first try?

8 A. The DUI? Yes, I did.

9 Q Do you have any reason to believe that if you had asked

10 for a meeting with Judge Sheely, that he would have

11 denied you that meeting?

12 A. Probably not. Unfortunately, he had already made his

13 decision before we could meet with him.

14 Q But there was quite a time, there was a time frame

15 between the initiation of your Complaint and the time

16 that Judge Sheely, as you say, made the decision?

17 A. Right.

18 Q In that time frame could you have asked to speak with

19 Judge Sheely?

20 A. I'm sure we could have. But we were under the

21 understanding, meaning we, my attorney and myself, that

22 Dave Deluce was in constant contact with Judge Sheely.

23 Q But you could have gone directly to Judge Sheely?

24 A. Yes, we could have.

25 Q You talked yesterday about the Central Investigation

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1 Department and harassment charges that you discussed
2 with them.

3 A. Right.

4 Q Did you initiate that conversation with the CID?

5 A. No. What happened, I had spoke with the sheriff. He
6 had called me in and he had told me -- in fact, it was
7 the day right around the time Mr. Graham was being moved
8 to the new position. He had told me that they had taken
9 Mr. Graham's gun from him and that he would be searched
10 anytime he came into the prison. And he had asked the
11 CID director to come down and meet with us at the same
12 time. So it was Tom Kline, the sheriff, who had
13 initiated the initial call.

14 Q But you initiated the call to the sheriff; am I
15 understanding that correctly?

16 A. I think we probably passed in the hall and he said, do
17 you have a minute, I want to talk to you.

18 Q And what did he say at that point?

19 A. That's when he said I need for you to know that they --
20 Mr. Graham was going to be moved out of the building and
21 that there was concerns about retaliation of his anger,
22 and that --

23 Q Who expressed those concerns?

24 A. The sheriff. The sheriff, Tom Kline.

25 Q On his own?